



MISSOURI Rural Development

MULTI-FAMILY HOUSING NEWS

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MESSAGE FROM JANIE

It's been a busy year for everyone and there seems to be no end in sight as we all make preparation for the 2008 proposed budget process and then the 2007 year end report submissions. It has been almost three years since the new multi-family housing regulations became effective but, as to be expected, changes continue to occur. I want to thank everyone for their patience during the transition and the continued challenges put before all of us. By working together, we will all be more successful. It has been a while since our last newsletter but we have received a lot of good questions that deserve sharing with everyone plus we have some updates that are fairly important to you. So, here goes.....

FIRST IMPRESSIONS!

Throughout the year, state office and field office staff drive by your properties. We have seen many that are beautiful and well cared for, a property that is marketable and a place where good tenants want to live. However, we have seen many others that lack the "little things that make a property look good", i.e. trash all over the grounds and around the dumpster, dirty breezeways and laundry rooms, weeds not pulled, shrubs and trees needing trimmed, etc. These are items that should be taken care of in the normal course of management and do not usually require a "big pocketbook". The curb appeal as indicated above is very important to the success of a property. If the property is not being cared for, it tells tenants they do not have to care for the property either. The curb appeal of the properties is a direct reflection of the effectiveness of management and will be considered by RD. Please make sure your policies are strong with relation to the requirements of property upkeep by your site managers and maintenance staff.

***Pride is a personal commitment;
it is an attitude which separates
excellence from mediocrity.***

2008 PROPOSED BUDGET

Remember that the proposed 2008 budget template giving specific details of how to complete the individual line items is on our website at:

<http://www.rurdev.usda.gov/mo/3560-7-2008%20Proposed%20Budget.pdf>

There are a couple of changes that were made on this template from last year, one being the way in which reserve interest is shown. Another change is in Part II, the expense section, for audit fees. The template shows the new requirements for the 2007 year end reports which will change the amount of funds you will need to budget on the proposed 2008 budget since the fees will be paid next year. Finally, the allowable management fees for 2008 are \$39.00 per occupied unit. Remember, if you are requesting a change in management fees, RD Form 3560-13 (Management Certification), must be submitted to RD along with the proposed budget for approval. Use of the Budget Template can be a tool for helping assure that you are including all the required information.

WHAT DOES YOUR SIGN SAY?

There seems to be some confusion as to what is required to meet the requirements for accessibility signs. In fact, we have seen signs that are not in compliance with the requirements. The following will provide clarification:

- UFAS 4.6.4 states that the sign must have the symbol of accessibility, i.e. person in wheelchair
- Missouri law states that the sign will include language showing "fine of \$50 to \$300". We have seen signs that simply say "fine of \$250" which is only allowed if the community where the property is located has passed an ordinance that requires a specific value of fine that is somewhere between the figures required by Missouri law. A copy of the community ordinance would need to be provided to RD.
- An additional "van accessible" sign shall be mounted below the symbol of accessibility for a van accessible parking space which is required if there is an office or community room that has public access.



INQUIRING MINDS WANT TO KNOW.....

Over the last few years we have received some “what if” questions. Below, we will try to give you our Best and Final answer to them. (*Does this sound like a game show?*)

The #1 question in the state is: “Can we designate our entire property or certain buildings as smoke-free?”

The short answer is YES you can, but the appropriate answer is that this is an option that can be considered by owners since smokers are not a protected class under discrimination laws. If this is something you are interested in, we recommend that you thoroughly think about all of the questions or situations that may arise if you do make your property smoke-free. For example, how will you handle the current smoking residents at your property? Will there be areas outside the buildings where residents can smoke? How will you be able to verify if a resident is smoking or not and terminate their lease if needed? If you designate certain units as smoke-free, how will you handle your waiting list? What happens if you have some units vacant in a non-smoking building and there is no one on the waiting list, will you make exceptions?

If this is an option that you are interested in, we strongly suggest that you seek legal advice so you will have all the bases covered. At a minimum, the rules and regulations would need to be revised to address this situation. Please refer to Section 6.15 of the Asset Management Book for modifying the rules and regulations. As a reminder, the rules and regulations are to be attached to the Lease Agreement. This would require prior review by Rural Development.

The #2 Question is: “Can we charge an additional security deposit for smokers vs. non-smokers?”

Regulations state that a security deposit can be charged as long it does not exceed the greater of the tenant’s net contribution or the basic rent. In most cases the required security deposit is typically the basic rent. Furthermore, Section 7.8 E of the Asset Management Handbook covers “additional deposits” that can be charged. Typically this would be applicable to a pet deposit. It further states “*Borrowers must not charge additional security deposits based on disabilities of tenants or other personal characteristics.*” We think that smoking is a personal characteristic. Therefore, we think the answer is NO, an additional security deposit may not be charged for smokers.

The #3 Question is: “Can we require renter’s insurance for our residents?”

Yes you can! Again, we encourage you to think through this entire process. This would require a change in your tenant selection criteria, rules and regulations, and possibly your lease agreement. Some things to consider are whether or not this would cause a financial burden for your residents which are primarily very low income and possibly in turn affect your occupancy. How would you monitor and enforce it? Meaning, would you require proof of renter’s insurance at move-in time and at every recertification? Again, we recognize that by requiring your residents to carry renter’s insurance, it could reduce the property insurance cost, but you also need to consider how it would impact your residents and the sustainability of your property. We recommend that if this is an option you want to implement that you do seek legal advice for getting this accomplished.

The final and last question is: “Can we require that our tenants/applicants pay a minimum rent or have a minimum income amount?”

A minimum rental payment is not allowable by our regulations. It is allowable for Section 8 properties financed by HUD, but not allowable for Rural Development financed properties. This may be a change in the future, but for now a minimum tenant rent payment is not allowed.

It is allowable in our regulations to require tenants/applicants that would not be receiving any type of rental assistance (Refer to Section 6.3 of the Asset Management Handbook) to have a minimum income. This means that if you have a 20 unit complex with 10 units of rental assistance and all of the rental assistance was being used, you could require that the 10 applicants for the non-subsidized units have a certain amount of income in order to demonstrate that they can pay the rent established for your property. If this is something you would like to implement, it would need to be addressed in your management plan and tenant selection criteria. It is the policy of Rural Development not to accept a tenant certification for an applicant or tenant with zero income unless all income is specifically exempted.



NEW REQUIREMENTS FOR INELIGIBLE TENANTS

There are now two kinds of ineligible tenant waivers, “*Income Ineligible Tenants*” and “*Occupancy Ineligible Tenants*”

WE NO LONGER CAN APPROVE AGE INELIGIBLE TENANTS IN ELDERLY COMPLEXES.

Before RD can approve a waiver for either situation, the owner must demonstrate that a diligent effort has been made to find eligible households. Additional guidance for each type of waiver follows:

Income Ineligible Tenants – As you probably know, to be considered income eligible the adjusted income of a household must be at or below the Moderate Income limits (7 CFR 3560.152 (a) (2)). To request a waiver from RD, you must submit a Request for Waiver for Complex to Rent to Income Ineligible Tenants for One (1) Year to the Area Office for approval. RD can approve the waiver for up to 1 year and it will be for the entire property. It does not have to be resubmitted for each income ineligible tenant during the timeframe approved. Without this waiver, income ineligible households cannot reside in your complex. We have provided a sample waiver request form which is located at: www.rurdev.usda.gov/mo/mfhpage.htm.

When you transmit a tenant certification via MINC, the household income is checked against the income levels to make sure the household is income eligible. If they are not income eligible, and if the tenant certification is not correctly coded, the transmission is rejected with a message that the household must be coded as ineligible and the transmission must be re-submitted. NOTE: The rejected transmission cannot be modified – another transmission must be submitted with the correct coding.

Ineligible Tenants due to Occupancy – Occupancy ineligible households are if you have too many people living in a unit as indicated by your occupancy standards for the unit size (over-utilized) or not enough people living in a unit (under-utilization). An example of “under-utilization” would be one tenant in a two bedroom unit without proper documentation of need for the second bedroom.

In order to be able to rent to occupancy ineligible households, you must request a waiver from RD. RD can approve the waiver for up to 1 year and it will be for the entire property. Again, it does not have to be resubmitted for each occupancy ineligible tenant during the timeframe approved. **Without this waiver, occupancy ineligible households cannot reside in your complex.** We have provided a sample waiver

request form, Request for Waiver for Complex to Rent to Occupancy Ineligible Tenants for One (1) Year, which is located at: www.rurdev.usda.gov/mo/mfhpage.htm.

We have provided a training power point on the Tenant Occupancy and Eligibility Requirements and it can be found at: www.rurdev.usda.gov/mo/mfhpage.htm.

We encourage you all to review this training tool and the requirements. Many of you already have both income and occupancy ineligible tenants living at the complex without an approved waiver. During the next few months our field staff will be reviewing project worksheets. If you do not have a waiver, they will be asking you to submit one. Our field staff is available to assist you with this process. Please take the time to review your project worksheet and determine if you have any ineligible tenants and submit the required request with supporting documentation.

CSC UPDATES:

The Centralized Servicing Center continues to strive to provide service to you in regards to payments and tenant certifications. We would like to share some items that may help you with this process:

- **Late/Overage Fees** – We have noticed that CSC is sending out a lot of letters about late fees due to late payments, and overage fees due to late and expired tenant certifications. Having late or expired tenant certifications and late payments may create unnecessary and avoidable fees to your complex or management company. Due dates are:
 - **Payments** – due the first day of each month
 - **Tip #1** – Project Worksheets are released on the 20th of each month prior to the due date, so your payment can be made anytime after the 20th!
 - **Tip # 2** – Sign up for PAD (Pre-Authorized Debit) to expedite your payment. Contact your RD Servicing Office to discuss this process.
- **Tenant Certifications** – due by the 10th of the month in which it is effective.
 - **Tip #1** – Tenant Certifications and Re-certifications can be transmitted up to 90 days prior to the effective date.
- **Evictions** – Once you have issued a notice of lease termination, you need to transmit via MINC an eviction using the effective date of the letter.
 - **TIP** - Many of the overage fees can be avoided by transmitting the eviction through MINC as soon as you issue the lease termination notice to the tenant. If the tenant certification expires while the eviction code is in place it will not show a late certification and thus no late/overage fees.

TIMELINESS SAVES \$\$\$\$!!!!

When a borrower/management agent is contacted by Rural Development regarding the probability that a tenant has misreported their income, it is the responsibility of the borrower/management agent to investigate by obtaining a verification of employment from the employer identified in Rural Development's initial contact. The Owner/Management needs to determine whether or not the tenant received unauthorized assistance. You would need to re-certify the tenant's household income immediately, and obtain a Payment Agreement from the tenant to repay Rural Development for the unauthorized assistance.

Often times, the matter is not investigated timely, and the tenant continues to receive the unauthorized assistance until the borrower/management agent takes the appropriate action(s) noted above. This results in an increased amount of unauthorized assistance which will be owed back to the Government. As a reminder, 7 CFR 3560.703 states the following: *"Borrowers have the primary responsibility for identifying repayment of unauthorized assistance received by tenants."* If a borrower fails to take immediate action to our letter regarding the possibility of unauthorized assistance, RD may hold the borrower responsible for paying back the portion of unauthorized assistance from the time our first letter was initiated.

Please respond to our letter within thirty (30) days regarding the efforts you are making with the tenant to pay back any unauthorized assistance. We may request additional documentation to determine if cases involving unauthorized assistance are being addressed timely by the borrower. Communication & Documentation are keys in determining whether you are making a sincere effort to get these funds collected.

When the delay is due to lack of cooperation by the tenant, the tenant will be held solely responsible. The owner/management should immediately begin the termination of lease process and the eviction action transmitted via MINC. Again, this must be communicated to us if this is the situation.

It is imperative that a copy of the Payment Agreement be provided to Rural Development. In the event of a protest from the tenant when the account has been referred to the Department of Treasury, Rural Development is required to provide a copy of that Agreement to the mediator.

Rural Development has identified over \$716,000 in rental assistance and unpaid overage, and collected over \$279,000 to date. This would not be possible without the cooperation of everyone involved. Your patience and cooperation is greatly appreciated. Keep up the good work!



***Is there
something you
want us to cover in
our next newsletter?
Drop us a line and let us know!***

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HAPPY HALLOWEEN

**PLEASE SHARE OUR NEWS WITH
YOUR SITE MANAGERS AND
MAINTENANCE PERSONNEL.**

"USDA is an equal opportunity provider, employer and lender." To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Ave., S.W., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).