



NHTF • The National Housing Trust Fund

Tenant Selection and Tenant Protections

Tenant Participation

According to the National Housing Trust Fund (NHTF) law, property owners must comply with laws relating to tenant protections and tenants' rights to participate in the decision making regarding their homes.

§1338(c)(8)(A) statute

However, the interim regulations do not mention tenants' rights to participate in the decision making about their homes.

Tips for Advocates

- *Advocates should convince their state or local subgrantee to formally require NHTF-assisted properties to comply with state or local tenant participation laws, regulations, or ordinances.*
- *Advocates should convince their state or local subgrantee to formally adopt the tenant participation features used by HUD's Office of Multifamily Housing Programs. These are known as the Section 245 regulations, also found in HUD Handbook 4381.5, Chapter 4.*

Tenant Selection

HUD's interim rule requires owners to have and follow written tenant selection policies.

- Landlords must comply with the state's or local government's affirmative marketing requirements.
- Tenants must be selected from a written waiting list, in chronological order, if practical.
- Anyone who applied to rent a NHTF unit but was denied must receive a prompt written notice explaining why the application was rejected.
- Owners may not reject someone with a voucher or with HOME tenant-based assistance.

§93.303(d)(4), (5), and (6) regulations

Tenant Selection, continues

Tenant Selection, *continued*

- Eligibility may be limited to or preference may be given to people from a particular segment of the population, but only if:
 - The state or local subgrantee allows it in a written agreement;
 - The limitation or preference is in the Consolidated Plan; and,
 - The limitation or preference does not violate nondiscrimination requirements.

The interim rule clarifies that a limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a federal program that limits eligibility to a particular segment of the population, and the limit or preference is tailored to serve that segment of the population. As an example of a federal program, the interim regulation names the Housing Opportunity for Persons with AIDS program (HOPWA).

§93.303(d)(3)

The interim rule does not give other examples of “segment of the population”; however, the changes in the final HOME program rule do give examples, such as teachers, police, and artists.

- Eligibility may be limited to or preference may be given to people with disabilities who need the services offered at a project only if:
 - The limitation or preference is limited to the population of households with disabilities that significantly interfere with their ability to obtain and maintain housing; and,
 - These households will not be able to obtain or maintain themselves in housing without appropriate supportive services; and,
 - The services cannot be provided in a non-segregated setting.
 - The household must not be required to accept the services.
 - In advertising the project the owner may advertise it as offering services for a particular type of disability.
 - The project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided at the project.

§93.303(d)(3)(ii)

Tenant Protections, *next page*

Tenant Protections

The interim rule requires a written lease between the resident and the owner that is for at least one year. A shorter lease is allowed if both the resident and the owner agree.

§93.303(a)

Owners may only terminate someone's tenancy or refuse to renew a lease if there is "good cause."

- Good cause does not include an increase in household income.
- Examples of good cause are:
 - Serious or repeated violations of the lease;
 - Violations of federal, state, or local laws;
- If an owner ends or refuses to renew a lease:
 - There must be written notice specifying the reason.
 - The notice must specify when a household must vacate, consistent with state or local law.

§93.303(c)

The interim rule has nine items that must not be in a lease. They include: mandatory supportive services; waiver of right to a jury trial; and, agreement to not hold an owner responsible for any actions or failure to act.

§93.303(b)