

ASSISTED HOUSING MANAGEMENT INSIDER®

★ ★ INCORPORATING ASSISTED HOUSING FINANCIAL MANAGEMENT INSIDER ★ ★

SPECIAL ISSUE

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Sequestration Report Reveals Potential HUD Cuts

The White House released a report mandated by the Sequestration Transparency Act of 2012 on Friday, Sept. 14. The report describes the administration's plan for implementing the budget cuts that could be triggered if Congress doesn't act to reduce the deficit by \$1.2 trillion.

The deficit reduction is required by the Budget Control Act of 2011, the legislation passed last year that allowed a temporary increase in the debt ceiling to give Congress time to enact a more permanent solution. The sequestration cuts are scheduled to take place on Jan. 2, 2013, assuming Congress is unable to reach an agreement by then.

The White House's Office of Management and Budget (OMB) describes sequestration as "a blunt and indiscriminate instrument" that would result in an 8.2 percent cut to "critical housing programs" for low-income families and

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Special "Trainer" Issue: Test Your Compliance Knowledge

Four years ago, the *Insider* launched a new monthly feature: The Trainer. Since then, the Trainer has asked—and answered—questions based on topics discussed in each issue's compliance articles. Whether you're a long-time subscriber or a new one, you can test your knowledge—and that of your staff—on various compliance topics we've covered in recent years by taking the quiz in this Special Issue. The questions touch on topics ranging from applicant screenings and income calculations, to the EIV system, REAC inspections, and fair housing compliance. The answers, along with explanations, follow the quiz.

And, to celebrate the recent launch of our upgraded Web site, each answer will provide a reference to the *Insider* article where you can find more information on the topic online. Just go to our Web site at www.AssistedHousingInsider.com. You can search for the article by typing the title into the search field, or by selecting the issue in our online archive. You can view the articles online, print them out, or even download a PDF of an entire issue!

We welcome your feedback on our new Web site and any ideas you have for making it more useful. You can contact us by clicking on Ask the *Insider*, under Departments, on our home page.

THE TRAINER

QUESTION #1

An applicant tells you that he misplaced his Social Security card and asks whether he can show you a different document as proof of his Social Security number (SSN). According to HUD, which of the following documents is *not* acceptable proof of an applicant's SSN?

- Driver's license.
- Car insurance policy.
- Health insurance ID card.
- Union ID card.

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THE TRAINER**QUESTION #2**

An applicant from the Middle East claims that he has applied for temporary lawful resident status. He says that although the government has assigned him a Social Security number, he doesn't have any documentation of it. You should:

- Deny his application because he's not a U.S. citizen.
- Offer to put him on the waiting list until his Social Security card is issued.
- Deny his application and report his presence in the U.S. to the Department of Homeland Security (DHS).
- Ask him to show you a letter from the DHS indicating that he has been assigned an SSN.

QUESTION #3

Your state has legalized the use of medical marijuana for certain qualifying medical conditions. A resident with a back injury asks you to let him smoke marijuana in his unit as a reasonable accommodation for his disability. You should:

- Ask him for a note from his physician verifying his disability.
- Ask him for a note from his physician verifying that his use of medical marijuana is necessary for him to use and enjoy his dwelling.
- Deny his request because a back injury doesn't qualify as a disability under the Fair Housing Act.
- Deny his request because marijuana is considered an illegal drug under federal law; it doesn't matter that your state law permits its use medically.

QUESTION #4

Multifamily assisted housing sites like Section 8 developments are considered public property, so normal trespass rules don't apply. True or false?

- True.
- False.

QUESTION #5

You haven't decided where to get criminal background information when screening applicants or how much it's going to cost. Can you write a tenant selection plan without this section?

- Yes.
- No.

QUESTION #6

Fill in the blank: Owners may establish a house rule defining "extended absence" as the tenant being absent from the unit for longer than 60 con-

THE TRAINER

tinuous days, or for longer than _____ days for medical absence.

- a. 100
- b. 150
- c. 180

QUESTION #7

When personal items are left behind in an abandoned unit, a good course of action would be to:

- a. Dispose of the items as expeditiously as possible.
- b. Store such items for 30 days and then sell or dispose of the times.
- c. Keep the items in a secure locker for as long as you own the property.

QUESTION #8

Fill in the blank: HUD regulations stipulate that owners must notify residents if they are proposing to _____:

- a. Increase maximum permissible rents.
- b. Convert from project-paid utilities to resident-paid utilities.
- c. Convert residential units to nonresidential use.
- d. All of the above.

QUESTION #9

One of your residents has a live-in aide. If the resident no longer requires the aide's services, the live-in aide may still qualify for continued occupancy. True or false?

- a. True.
- b. False.

QUESTION #10

Fill in the blank: When an outside organization makes a request to use a community room, you should _____:

- a. Never charge a fee.
- b. Employ a range of fees, if appropriate.
- c. Deny the request.

QUESTION #11

Fill in the blank: If you need to evict a noisy resident, you must provide at least _____ days' notice to the resident.

- a. 10
- b. 30
- c. 60

QUESTION #12

When cleaning up graffiti, it's best to do so:

- a. Within 24 hours, if at all possible.
- b. Within a week.
- c. Only after you've found out who is responsible for the graffiti.

QUESTION #13

In general, the most common mistakes managers make with move-in inspections include:

- a. Doing the inspection after the lease is signed.
- b. Inspecting without a household member present.
- c. Failing to get the inspection report signed by the head of the household.
- d. All of the above.

QUESTION #14

Site preferences affect only the order of applicants on the waiting list and cannot make anyone eligible who is not. True or false?

- a. True.
- b. False.

QUESTION #15

It's a good idea to do your own unit inspections:

- a. One year before the REAC inspection.
- b. At least one month before the REAC inspection.
- c. After the REAC inspection.

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THE TRAINER

QUESTION #16

Before showing available units, you ask prospects for a photo ID. Copying photo IDs to keep on file won't raise fair housing issues. True or false?

- a. True.
- b. False.

QUESTION #17

One resident has complained that another resident is harassing her. The first step in dealing with harassment complaints from residents is to:

- a. Meet with the resident who is complaining.
- b. Meet with the resident who is the target of the complaint.
- c. Get the complaint in writing.

QUESTION #18

HUD requires that you screen applicant household members for certain drug-related and criminal history, including:

- a. Traffic violations.
- b. School disciplinary actions.
- c. Sex offender history.
- d. All of the above.

QUESTION #19

HUD does not require EIV reports to be placed in household files. True or false?

- a. True.
- b. False.

QUESTION #20

Filing a tax assessment appeal is a prerequisite for getting HUD's approval for a rent increase to cover a tax hike. True or false?

- a. True.
- b. False.

QUESTION #21

Jane Jones has a 5-year-old son. She pays for 45 hours of child care at the rate of \$10 per hour, for a total of \$450 per week. Of the 45 hours, 35 hours of child care allow Jane

to work at her job, where she makes \$350 a week. And 10 hours of child care allow Jane to attend nursing school classes. What is Jane's total child-care allowance?

- a. \$450.
- b. \$350.
- c. \$400.

QUESTION #22

It's your site's policy to accept applications from emancipated minors. When an applicant claims to be an emancipated minor, you should ask for what documentation as proof?

- a. A copy of a letter from the local Social Security office verifying his emancipation.
- b. A copy of a court-issued emancipation order or a copy of a letter from the state social services agency verifying that he has been released from foster care or is no longer a ward of the state.
- c. A copy of a court-issued emancipation order or a copy of his marriage certificate, if your state allows emancipation through marriage.

QUESTION #23

When verifying a resident's workers' compensation benefits, you should ask the insurer to provide the:

- a. Payment amount, effective date, and duration of benefits.
- b. Monthly or weekly payment amount, cumulative payment amount, and termination date.
- c. Payment amount, type of injury or illness, and duration of benefits.

QUESTION #24

All households are permitted to claim a deduction for medical expenses that are in excess of 3 percent of their annual gross income. True or false?

- a. True.
- b. False.

THE TRAINER

QUESTION #25

When a household's rent increases, you should ask the household for an increased security deposit as well. True or false?

- a. True.
- b. False.

QUESTION #26

The new HUD rules banning discrimination based on sexual orientation and gender identity apply only to applicants, not their household members. True or false?

- a. True.
- b. False.

QUESTION #27

A resident with a mobility disorder has recently started using a motorized scooter around the site. You're worried that his use of the scooter in the common areas will present a greater risk of damage and accidents. You can require him to pay an extra deposit or obtain liability insurance as a condition for allowing him to use the scooter outside his unit. True or false?

- a. True.
- b. False.

QUESTION #28

When Roger Resident retired, his company's pension fund paid him a lump-sum amount of \$10,000. He spent \$2,000 on a car, bought \$1,000 in stock, and deposited \$7,000 in

his savings account. How should you treat the lump-sum amount?

- a. Count the entire \$10,000 as income.
- b. Count \$2,000 as income, and the \$8,000 in stock and savings as assets.
- c. Don't count any of the \$10,000 as income. Count the \$1,000 in stock and \$7,000 he deposited in savings as assets.

QUESTION #29

Children should be counted as household members even when:

- a. They're temporarily placed in foster homes.
- b. They're away at college except during the summer and holidays.
- c. They live two days a week with another parent who has joint custody.
- d. All of the above.

QUESTION #30

Before agreeing to take over the management of a site, you're reviewing its financial reports to determine how challenging the job may be. You know that some unethical owners take improper advances and misclassify them as prepaid expenses. To look for excessive or improper payments to the owner, you should look at the:

- a. Statement of cash flow from operations.
- b. Income statement.
- c. Balance sheet.

▶▶▶ *Answers & Explanations begin on p. 6.*

Sequestration Report (continued from p. 1)

individuals. And sequestration cuts to housing programs as estimated by OMB include:

- ◆ Public housing operating fund cut by \$325 million;
- ◆ Project-based rental assistance cut by \$772 million;
- ◆ Public housing capital fund cut by \$154 million;
- ◆ HOME Investment Partnership program cut by \$82 million; and

◆ Housing counseling assistance cut by \$4 million.

According to calculations from the National Low Income Housing Coalition, more than 185,000 households would lose their tenant-based rental assistance vouchers; 92,400 households would lose their project-based rental assistance housing; and 145,900 people would remain homeless, instead of being

housed under the Homeless Assistance Grant program.

In addition, more than 140,000 currently housed families that include an elderly person or a person with a disability would receive reduced unit maintenance and lower levels of supportive services in units funded by Section 202 Housing for the Elderly or Section 811 Housing for People with Disabilities.

ANSWERS & EXPLANATIONS

QUESTION #1

Correct answer: b

The HUD Handbook 4350.3 does not list a car insurance policy as acceptable documentation of an applicant's SSN. However, a life insurance policy that indicates the applicant's SSN is considered acceptable proof.

- ◆ See "Four Tips to Follow When Navigating HUD's EIV System," June 2011

QUESTION #2

Correct answer: d

The government assigns SSNs to individuals who apply for legalization under the Immigration Reform and Control Act of 1986. But the actual cards go to the DHS until the individuals are granted temporary lawful resident status. Until that time, their acceptable documentation is a letter from the DHS indicating that an SSN has been assigned.

- ◆ See "Four Tips to Follow When Navigating HUD's EIV System," June 2011

QUESTION #3

Correct answer: d

Federal law trumps state law, and under federal law, marijuana is considered an illegal drug. Accommodations that allow the use of medical marijuana would sanction violations of federal criminal law. Therefore, denying this accommodation request is justified.

- ◆ See "Don't Allow Marijuana Use as a Reasonable Accommodation," June 2011

QUESTION #4

Correct answer: b

False. Section 8 housing developments are private property, just like any other private housing development. Normal trespass laws apply.

- ◆ See "Adopt No-Trespassing Policy to Boost Site Security," May 2009

QUESTION #5

Correct answer: b

No. HUD requires that you put your criminal background checks and decision-making procedures in your plan. To

protect yourself and give your staff a workable tenant selection plan, you need to decide what your criminal background check policies and procedures are, especially how far back you will go and what circumstances you will consider extenuating. You must make these decisions before putting a plan in place. Gaps in and pieces missing from a plan create confusion and invite challenges and lawsuits.

- ◆ See "How to Write a Tenant Selection Plan," August 2009

QUESTION #6

Correct answer: c

HUD guidelines allow for longer than 180 days for medical reasons, or three times as long as a general absence, to account for particular circumstances involving a possible long-term illness of a resident.

- ◆ See "Abandoned or Absent: How to Handle Unit That May Have Been Vacated," October 2009

QUESTION #7

Correct answer: b

Thirty days is a reasonable period of time to store personal items from an abandoned unit. Often the personal things are claimed within that time frame. If not, most owners will sell what they can and dispose of the rest.

- ◆ See "Abandoned or Absent: How to Handle Unit That May Have Been Vacated," October 2009

QUESTION #8

Correct answer: d

All of these items significantly affect residents and are among the actions that, under HUD regulations (24 CFR, Part 245), require owners to notify residents.

- ◆ See "Comply with Regs Promoting Strong Resident-Management Relationship," December 2009

QUESTION #9

Correct answer: b

A live-in aide qualifies for occupancy only as long as the individual needing supportive services requires the aide's services and remains a resident. The live-in aide may not qualify for continued occupancy as a remaining family member. Owners are encouraged to use a lease adden-

ANSWERS & EXPLANATIONS

dum that denies occupancy of the unit to a live-in aide after the resident, for whatever reason, is no longer living in the unit. The lease addendum should also give the owner the right to evict a live-in aide who violates any of the house rules.

- ◆ See *"Know the Ins and Outs of Live-In Aides,"* April 2010

QUESTION #10

Correct answer: b

In general, it's best to charge a range of fees for community room use by outside organizations. Residents usually aren't charged for their use of the space, provided they leave the facility in satisfactory condition.

- ◆ See *"Adopt Policy to Assure Fair Use of Community Room,"* April 2010

QUESTION #11

Correct answer: b

If you find that you need to take your case to court to evict a noisy resident, the court will expect that you've complied with HUD's lease termination notice requirements, which mandate at least 30 days' written notice before you terminate a lease. In addition, the HUD Handbook requires that you give the resident sufficient information about the cause for termination "to enable the tenant to prepare a defense."

- ◆ See *"How to Build Effective Case Against Noisy Residents,"* June 2010

QUESTION #12

Correct answer: a

You should clean or cover graffiti within 24 hours. Have touch-up paint handy and cover the surface as soon as you can, experts say.

- ◆ See *"Take Swift, Strong Measures to Wipe Out Graffiti,"* June 2010

QUESTION #13

Correct answer: d

All of these items are common mistakes managers make during move-in inspections. Another common mistake: Failing to attach a copy of the report to the lease.

- ◆ See *"How to Avoid Common Move-in Inspection Missteps,"* August 2010

QUESTION #14

Correct answer: a

Applicants with preferences are selected from your waiting list. Preferences affect only applicants' order on the list, and cannot make anyone eligible who was not already eligible. You must inform all applicants about available preferences that you use and give all applicants an opportunity to show that they qualify for them.

- ◆ See *"How to Set and Apply Admissions Preferences,"* December 2010

QUESTION #15

Correct answer: b

It's good practice to do your own inspection ahead of a scheduled REAC inspection. Unit inspections should be conducted at least one month in advance when preparing for a REAC inspection so that maintenance staff has the time to order supplies and to complete the work orders for each unit.

- ◆ See *"Maintain Unit Kitchens for Fewer Inspection Worries,"* January 2011

QUESTION #16

Correct answer: b

You want to avoid the appearance that you are communicating, even in a subtle way, the prospect's race or national origin to the manager who accepts or rejects housing applicants. Federally funded housing documents require information about race, but you want to avoid the appearance of unfair practices in the early stages of application.

- ◆ See *"Should You Ask Prospects for Photo IDs?,"* February 2011

QUESTION #17

Correct answer: c

Getting the complaint in writing is the first step in a systematic approach to dealing with harassment situations. Identify, to the degree possible, the persons who are believed to be engaging in the harassing behavior. Whenever possible, include dates, times, places, and witnesses, if any.

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ANSWERS & EXPLANATIONS

- ◆ See “How to Respond to Claims of Resident-on-Resident Harassment,” March 2011

QUESTION #18

Correct answer: c

HUD wants you to screen for sex offender history. You also are permitted (but not required) to screen for credit and rental history. The household file should include proof that you conducted the required screenings and also proof of any optional screenings.

- ◆ See “Keep Household Files Complete and Current,” April 2011

QUESTION #19

Correct answer: b

With mandatory use of the EIV system came requirements for certain reports from EIV to be placed in household files. These include the existing tenant search that is run before move-in and the identity verification report, as well as the new hire and income verification reports that are run 90 days after move-in.

- ◆ See “Keep Household Files Complete and Current,” April 2011

QUESTION #20

Correct answer: a.

According Handbook 4350.1, paragraph 23-7, HUD won't approve a rent increase to cover a tax hike unless you've appealed the assessment.

- ◆ See “How to Hire a Tax Appeal Consultant to Challenge an Assessment,” July 2011

QUESTION #21

Correct answer: b.

Jane's work-related child-care expenses equal \$350 (35 hours x \$10), and her school-related child care expenses are \$100 (10 hours x \$10). Since her child-care expenses are capped at the amount of money she earns a week, her total child-care allowance is \$350 per week.

- ◆ See “Dos & Don'ts for Handling Resident's Child-Care Expenses in Special Circumstances,” July 2011

QUESTION #22

Correct answer: c

To verify that the applicant meets your state's legal requirements for emancipation, get a copy of the emancipation order or, if your site is in a state where marriage alone is sufficient, get a copy of the marriage certificate.

- ◆ See “Four Tips for Dealing with Applications from Emancipated Minors,” September 2011

QUESTION #23

Correct answer: a

Your verification form should ask the insurer to provide the payment amount, effective date, and duration of benefits.

- ◆ See “How to Verify Workers' Compensation Benefits for Annual Income Determinations,” October 2011

QUESTION #24

Correct answer: b

False. Only households in which the head, spouse, or co-head is at least 62 years old or is a person with disabilities may claim a medical expense allowance.

- ◆ See “How to Handle Households' Unanticipated Medical Expenses,” November 2011

QUESTION #25

Correct answer: b

False. According to the HUD Handbook, the security deposit for a unit is set when the household moves in, and you can't later adjust the security deposit upward simply because the contract rent for the unit increases. However, if a household transfers to another unit, you may close out the old security deposit on your books, after making any appropriate deduction and refund, and then collect a new deposit appropriate to the new unit.

- ◆ See “Follow HUD Rules When Itemizing Deductions from Security Deposit,” March 2012

QUESTION #26

Correct answer: b

False. The final rule clarifies that families who are otherwise eligible for HUD programs may not be excluded because one or more members of the family may be les-

ANSWERS & EXPLANATIONS

bian, gay, bisexual, or transgender (LGBT) or perceived to be LGBT or have an LGBT relationship.

- ◆ See “New HUD Regs Ban LGBT Discrimination,” March 2012

QUESTION #27

Correct answer: b

False. It’s unlawful to require individuals with disabilities to pay extra fees or deposits as a condition of receiving a requested accommodation, according to HUD/DOJ guidelines. The site may charge the resident for the cost of repairing any damage to his unit or the common areas caused by the scooter only if the site has a practice of assessing residents for any damage they cause to the premises.

- ◆ See “Clearing Up Misconceptions About Reasonable Accommodation Requests,” April 2012

QUESTION #28

Correct answer: c

At retirement or termination of employment, any lump-sum amount a household member elects to receive from a pension fund is counted as an asset—but only as long as the household continues to possess it. If the household

uses all or a portion of the money for something that’s not an asset, such as a car, that amount is not counted as an asset.

- ◆ See “How to Calculate Income and Assets from Pensions and Retirement Accounts,” April 2012

QUESTION #29

Correct answer: d

Children in all these circumstances should be counted as household members.

- ◆ See “How to Count Absent Members When Calculating Household Size and Income,” June 2012

QUESTION #30

Correct answer: c

If you find questionable prepaid expenses, you’ll need to make sure that those amounts are repaid to the site before you take over and, depending on the nature of the payment, reevaluate whether you want to do business with the site’s owner.

- ◆ See “How to Get Complete Financial Picture When Taking Over Site Management,” July 2012

RECENT COURT RULINGS

► Owner Not Liable for Discriminatory Retaliation

Facts: A disabled resident sued the owner and management of a low-income senior housing site for discrimination and retaliation. After receiving an announcement that the site was opening its Section 8 waiting list, the resident completed an application for the Section 8 housing. He claimed he got a letter from the assistant manager stating that his name was next on the list for Section 8 rental assistance and that there was one Section 8 studio apartment available.

A few months later, the resident received another letter from the assistant manager, again informing him that his “name had come up on our Section 8 waiting list” and that there was one studio apartment available, and to notify her if he was interested. The resident went to the management office, where the assistant manager informed him that there was another

applicant who was also interested in Section 8, but the resident could have the Section 8 assistance if the other applicant changed his mind. The assistant manager called the resident a few days later and informed him that she gave the unit to the other applicant.

The resident claimed that the site used inappropriate Section 8 policies and procedures and that the denial of Section 8 assistance was retaliation for having reported the management in the past for unsanitary conditions. The owner and management asked the court to dismiss the case.

Ruling: A California district court granted the owner and management’s request.

Reasoning: It wasn’t clear from the resident’s complaint whether the basis of the alleged discrimination and retaliation was his disability or his complaints

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Recent Court Rulings (continued from p. 9)

about the unsanitary conditions in the building. The owner and management devoted the bulk of their motion to dismiss attacking any claim that they acted on the basis of the resident's disability. In his opposition to the motion to dismiss, the resident clarified that he claims that the discrimination and retaliation occurred because of his complaints about the unsanitary conditions, not his handicap.

As a result, the court concluded that the resident failed to state a claim for discrimination or retaliation under the Fair Housing Act (FHA) or the Americans with Disabilities Act (ADA). The FHA protects against discrimination in the sale or rental of housing, but only where the discrimination is on the basis of race, color, national origin, religion, sex, familial status, or disability. Similarly, in order to state a claim of disability discrimination under Title II of the ADA, the resident must claim that the owner's or management's actions were "on the basis of a disability." Retaliation claims under the ADA require that the resident was discriminated against because he pursued his rights under the ADA. Here, the resident wasn't pursuing his rights under the ADA in his complaints; rather, he complained about unsanitary conditions of the housing complex.

■ Atterbury v. Sanchez et. al., August 2012

► **Owner Waited Too Long to Challenge PHA's Decision**

Facts: A PHA sent an owner a letter notifying her that various conditions needed to be repaired, and verified as repaired, within 30 days, or her Section 8 subsidy would terminate. The letter also notified the owner that she might be entitled to reimbursement for some or all of the suspended subsidy if she could establish that the majority of the violations were caused by the resident, or that access for repairs was delayed by the resident. To seek such reimbursement, the letter gave the owner a number to call within 30 days to discuss the policy requirements.

After the owner received the notice, she called the inspection unit to advise them that the resident refused access. She claimed that she took other steps after the "first missed payment in October 2010," including personally visiting the PHA's offices to explain that she couldn't gain access. She also commenced a nonpayment proceeding in 2011, and a settlement was signed providing for access dates.

The owner sued to reverse the PHA's decision to terminate the Section 8 subsidy for the unit, and recoup \$12,535.27 in rental payments for the period of time from October 2010 through August 2011. To bolster her claims of lack of access, the owner provided a notice from the New York City Department of Housing Preservation & Development, dated April 19, 2011, addressed to the resident to provide access to correct violations. She also submitted a letter from her home improvement contractor, dated July 12, 2011, stating that he couldn't gain access to the unit to make repairs. Finally, she submitted a letter dated Oct. 14, 2011, to the PHA reiterating that she hadn't been able to make repairs because the resident didn't provide access.

Ruling: A New York court denied the owner's request.

Reasoning: According to New York state law, a proceeding against a public "body or officer must be commenced within four months after the determination to be reviewed becomes final and binding." The owner concedes that she received the PHA's notice warning her of the termination of the subsidy on Oct. 13, 2010. She also referred to the "first missed payment in October 2010" and obviously knew that she didn't receive payments thereafter. Therefore, since more than four months had passed before filing this court action, the owner's claim is time-barred.

■ Weilders, Inc. v. New York City Housing Authority, August 2012

► **PHA Not Required to Modify Affirmative Action Plan**

Facts: In 1974, a group of residents sued the Toledo Metropolitan Housing Authority and HUD for segregating minorities from non-minorities when building and doling out housing. At the time, the court ruled for the residents and ordered adherence to an Affirmative Action Plan (AAP) designed to correct these practices and undo their effects. Recently, the lead resident in that case asked the court to modify the AAP to address the changed realities that the PHA and HUD face today.

For example, the PHA has shifted to a stronger focus on administering Section 8 (the Housing Choice Voucher program); the racial makeup of public housing tenants has changed; and the PHA is rebuilding and repurposing inner city housing projects that were central to the original racial segregation finding.

Ruling: An Ohio district court denied the request to alter the AAP.

Reasoning: To alter the AAP, the resident must demonstrate that progress is not being made toward achieving the objectives of the AAP, of which there are three: reducing racial segregation in the PHA's projects, remedying the effects of past discrimination, and assuring equal access to housing.

In 1985, the court said that the objective of remedying past discrimination "shall be achieved" by maintaining a specified ratio between minorities and non-minorities. The record shows that, at best, five family locations and one elderly location are within these ratios.

However, the PHA was able to show that it is making some progress towards desegregation (significant progress in elderly housing, moderate progress in family housing). Therefore, the resident's motion to modify the AAP must be denied because she can-

not meet the court's 1985 standard for modification—namely, showing that progress toward the goal of desegregation isn't being met.

The court further stated that the 3:1 and 1:1 ratios are outdated. And that with the practical application of waiting lists, resident preference, and the PHA's shifting focus to Section 8 and to rebuilding troubled projects likely means that the PHA could act in a completely fair, nondiscriminatory, and non-segregationist manner and still never reach the point where it may achieve the prescribed ratios. The court saw these facts as a chance for collaboration between the residents and the PHA to revise the AAP in a way that addresses the need to continue the housing projects' move toward desegregation while accounting for the modern realities on their own, but it could not order alteration of the AAP.

■ Grayson v. Toledo Metropolitan Housing Authority, September 2012

HUD AUDITS

► Juneau Project Didn't Comply with HUD Rules and Regulations

HUD audited Gruening Park Apartments, a 96-unit apartment complex in Juneau, Alaska, that's owned and operated by the Alaska Housing Development Corporation, to determine whether the owner administered the project and its programs in compliance with its regulatory agreement and other HUD requirements. HUD chose this project because its cash position—at negative \$294,058—was significantly deficient.

The auditors found that the owner generally administered the project and its programs in compliance with the regulatory agreement and other HUD requirements. But it didn't comply with HUD rules and regulations regarding its waiting list, security deposit collections, rent calculations, mortgage insurance premium payments, or management fee calculations.

The owner made changes to the project's waiting list aimed at addressing the auditors' concerns and reimbursed the project for its overpaid management fees.

The auditors recommended that HUD require the owner to implement policies and procedures to improve its waiting list documentation, security

deposit collections, recertification review process, and automatic withdrawals. They also recommended that the owner reimburse tenants for all overpayments, reconcile the mortgage insurance premium overpayment with the lender, and accurately calculate its management fee.

■ HUD Audit Report 2012-SE-1006: Gruening Park Apartments, Juneau, AK (9/5/12)

► Wichita Housing Authority Didn't Properly Administer Its HCV Program

HUD audited the Wichita Housing Authority's Housing Choice Voucher (HCV) program because it received more than \$12 million in Section 8 funding in both 2011 and 2012. Also, it's one of the largest housing authorities in Kansas and hadn't been recently reviewed.

The auditors found that the authority didn't always properly administer its HCV program. It oversubsidized 30 of the 94 households reviewed and didn't verify the use of additional bedrooms for medical or exercise equipment. Also, it didn't accurately complete the tenant recertification form for 44 of the 94 households. According to the auditors,

(continued on p. 12)

HUD Audits (continued from p. 11)

this occurred because the authority's quality control reviews were inadequate and the authority didn't have a system to track and verify tenants who were approved for an additional bedroom for medical or exercise equipment.

The auditors recommended that HUD require the authority to reimburse its HCV program \$67,269 from administrative fee reserves. Also, they recommended that HUD ensure that the authority develops and implements a more comprehensive quality control program for its tenant files to ensure that it complies with HUD requirements and a process to track and perform annual inspections of households that receive an extra bedroom for medical or exercise equipment.

■ HUD Audit Report 2012-KC-1005: Wichita Housing Authority, Wichita, KS (5/19/12)

► **Durham, N.C., Project Didn't Comply with Its Regulatory Agreement**

HUD audited the West Village Expansion Project, a HUD Section 220-insured property, in response to a citizen's hotline complaint. The anonymous caller

claimed that the principals of L8, LLC, the managing member of the ownership entity, spent an excessive amount of project funds on legal fees, transferred more than \$500,000 to another entity it owned, and failed to keep the mortgage current.

Auditors found that the owner violated its regulatory agreement by using project funds for unauthorized purposes. The owner repaid \$502,127 for previous advances from its managing member's principals, paid \$225,000 for unnecessary legal expenses, didn't pay its mortgage on time, and underfunded the project's replacement reserve account by \$36,400. It took these actions without HUD approval at a time when the property had no surplus cash and the mortgage was delinquent. As a result, the project had less money to operate, pay for future repairs, and keep the mortgage out of default, thus placing HUD at risk for the \$54 million mortgage.

Before the auditors could make recommendations to HUD, a new investor provided funds to bring the mortgage and required escrows current as well as fund the unauthorized distributions. The auditors concluded, therefore, that all issues have been resolved.

■ HUD Audit Report 2012-AT-1014: The Owner of the West Village Expansion Project, Durham, NC (7/27/12)

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