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Litigation, Regulations, and Guidelines in Housing Management

Participant's Workbook



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Participant's Workbook |
February, 1979 |

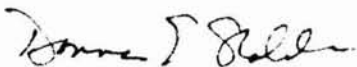
The research forming the basis for this workshop was conducted pursuant to grants between the U.S. Department of Housing and Urban Development and the five universities listed on the page of acknowledgments. Statements and information contained in this workshop are those of the grantees who assume sole responsibility for their accuracy and completeness.

FOREWORD

This workbook is one of eighteen in a housing-management curriculum developed by HUD in conjunction with Temple University. It is not easy. The workshops, for which this and the other workbooks are texts, will not be what we used to call Mickey Mouse sessions. And that, of course, is all to the good. Your time is valuable, and you are learning for a purpose. Any course you take should repay the efforts you must put in.

We believe that the workshops will do exactly that. At the end, after putting your new learning to practical use, you should feel not only a sense of satisfaction because of your enhanced competence, but you should also think of yourself as a housing-management professional, capable of dealing skillfully and humanely with anything the job throws at you.

Your instructor has a text similar to this one (with all the answers supplied) and a guide to conducting the workshops. The guide is a good one, stressing that the participants should be encouraged "to explore, risk, share, and feel." We hope you will. From there, and with your help, we can go on to reduce many of the serious problems brought about by inadequate housing management.



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PREFACE

Each workbook in this series presents a number of learning objectives targetted to a selected area of management. Successful completion of the learning objectives presented in each workbook provides a series of building blocks to buttress the spectrum of skills required of a housing manager.

In preparing these workbooks, an attempt has been made to incorporate the range of knowledge that housing managers might be required to draw upon. Likewise, an attempt has been made to reflect the present state-of-the-art of housing management. Inevitably, whatever is captured in print reflects a body of knowledge and practice up to the point of publication. Therefore, the students and instructors making use of these workbooks will want to keep alert to new developments that should be integrated into the workbook material. Furthermore, like any attempt to codify knowledge in a particular field, the material presented in these workbooks is open to differences of interpretation and emphasis. We are aware that there may be some techniques and procedures described in these workbooks with which some experts in the field might disagree. The best test of such procedures and techniques will come when they are applied in the field by housing management practitioners. Through this process, the state-of-the-art will continue to be improved. Instructors in the future will undoubtedly want to incorporate such acknowledged improvements into their delivery of the workbook material.

One final point is worth mentioning. An initial impetus for these workbooks was the need to upgrade management skills in HUD-related housing. However, many of the principles presented should be viewed by students and instructors as applicable to multifamily housing management practices in the private sector.

ACKNOWLEDGEMENTS

The five universities listed below worked together to develop a college-level curriculum for housing management. The fifteen modularized workshops were developed and compiled by the Center for Social Policy and Community Development at Temple University using specific elements of the college curriculum.

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Housing Management Institute
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Texas Southern University
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INTRODUCTION

Court decisions and government regulations establish requirements that have an impact on the day-to-day activities of housing managers. This workshop is designed to prepare you to implement your responsibilities in a manner that is consistent with the requirements established by law. You should preferably have completed the workshop on Leasing Procedures for Housing Managers before taking this workshop.

In order to enable you to comply with litigation, regulations, and guidelines, this workshop has three overall goals:

1. To enable you to comply with responsibilities resulting from relevant court decisions,
2. To enable you to comply with relevant local laws and regulations, and
3. To enable you to comply with relevant Federal legislation and guidelines.

Each goal has several learning objectives. These learning objectives are, simply, measurable statements about the specific knowledge you are expected to acquire in the workshop.

Each learning objective, in turn, has what is called an anticipated practice outcome. Anticipated practice outcomes are those practical skills a participant can be expected to implement on the job using the information acquired in the workshop.

In other words, anticipated practice outcomes refer to the ways knowledge acquired in the workshop can be applied to real problems and situations.

The workshop, organized around the learning objectives and anticipated practice outcomes, requires three half-day sessions, each covering an entire goal area.

GOAL AREA 1:

TO ENABLE YOU TO COMPLY WITH RESPONSIBILITIES
RESULTING FROM COURT DECISIONS

GOAL AREA 1: TO ENABLE YOU TO COMPLY WITH RESPONSIBILITIES RESULTING FROM COURT DECISIONS

LEARNING OBJECTIVES

1. You will cite the four (4) areas of management-resident disputes where court decisions have been handed down.
2. You will identify two (2) elements of management responsibility in each of the areas where decisions have been handed down.

ANTICIPATED PRACTICE OUTCOMES

1. You will be able to examine a flyer from a hypothetical housing development and make two (2) suggestions for improvement.
2. You will examine a letter from a hypothetical housing manager and suggest at least two (2) improvements.

CONTENT

Court Decisions

Increasingly, residents are beginning to take their disputes with management to court. Moreover, the courts are more likely than ever to rule in their behalf. Court decisions involving residents should have a bearing on the way that managers implement their responsibilities. The following areas have been the subject of recent court decisions:

1. Rent Determinations
2. Admissions
3. Evictions
4. Security

Implementing certain responsibilities on a day-to-day basis will limit the possibility of violating resident rights and thus help avoid costly and time-consuming court actions. The following pages outline some of the responsibilities for managers in these areas.

Rent Determination

1. Notify residents of proposed rent increases.
2. Allow residents to respond to proposed increases.
3. Provide justification for proposed increases on the basis of economic need.

4. Provide a hearing procedure for residents on proposed increases.
5. Do not propose increases which exceed the limits set in the Brooke Amendments (*There are two Brooke Amendments to the United States Housing Act of 1937.*)

The first Brooke Amendment limited rents in public housing to 25% of a family's income.

The second Brooke Amendment redefined income to exclude certain types of earnings:

- *Non-recurring income*
- *An amount equal to the sum of \$300 for each dependent, \$300 for each secondary wage earner, 5% of the family's gross income (10% for older families,) and those medical expenses of the family properly considered extraordinary.*
- *Payments received from a public agency for the care of foster children under 18 years of age.*

(Federally-subsidized Private Housing Managers, in addition to making the above considerations, must obtain HUD approval and FHA substantiation for all rent increases.)

Examples of Court Decisions concerning Rent Determinations:

Welfare Residents Differential

Hammond v. Lane County Housing Authority and Urban Renewal Agency; Massey v. Lane County Housing Authority and Urban Renewal Agency. (DC Ore. 1971) 328 F Supp. 586. A public housing authority discriminated against residents who were receiving public assistance by charging them a higher rental than residents where income was substantially the same, but received from other sources. The arbitrariness of the rent classification was demonstrated by the fact that the unequal rental schedule was based on factors other than rent-paying ability. Injunctive relief, however, was denied because the housing authority voluntarily discontinued the higher rentals for welfare recipients after commencement of this action.

Percentage Excesses Over Annual Net Income

Solomon v. New Orleans Housing Authority. (DC La., ED, New Orleans Div., No. 70-12, 4-23-70.) A local Housing Authority was temporarily restrained from evicting or taking any court action in preparation of, or leading toward, the eviction of any resident for non-payment of rent in all instances where the minimum rent charge of \$16.75 exceeded 23% of their annual net income. A class action had been filed against the Housing Authority challenging its minimum rent policy on the basis that it violated the provisions of the United

States Housing Act of 1937 by discriminating against those persons with the lowest incomes and most urgent housing needs and by distorting the required relationship between rent and income through the device of a minimum rent floor that wholly ignored the tenant's ability to pay in contravention of 42 U.S.C. 1401, 1402, and 1410.

Admissions

1. Residency requirements are prohibited.
2. Written non-partial admission standards must be developed to use in determining eligibility.
3. Categories of people may not be excluded because they belong to a group who were formerly discriminated against (e.g. unwed mothers, ex-convicts, poor credit risks).
4. Provide a statement of eligibility or ineligibility to applicants.
5. Allow for appeals of these determinations (with formal hearings).

(For Federally Subsidized Housing Managers - the basic income criteria are set by FHA, and a "well planned" resident selection is actively encouraged.)

Examples of Court Decisions concerning Admissions are as follows:

Illegitimate Children

Barile v. Housing Authority, City of Hoboken. (DC N.J., No. 701-70, 9-4-70.) Following the filing of a class action complaint against a public housing authority by a mother with two illegitimate children, alleging a violation of her civil rights under 42 U.S.C., Sec. 1983, for refusal to admit her to public housing because of the housing authority's policy against renting apartments to mothers with illegitimate children, a judgement of settlement was approved by a Federal district court. Under its terms, the mother was to be admitted to public housing as soon as possible, the housing authority officially repealed its policy of refusing to admit mothers with illegitimate children, housing authority amended its definition of "Families" to include families with illegitimate children, and the applications of such families would be duly processed consistent with the guidelines enunciated in the HUD Circular of December 17, 1968, which prohibits local public housing authorities from automatically denying admission to unwed mothers and requires applications to be evaluated on an individual basis.

Poor Rent Paying Habits

Matthews v. New Orleans Housing Authority (La. Civ. Dist. Ct., Orleans Parrish, No. 492, 665, Div. "B", Dkl. No. 3, 5-23-69.) A motion for a preliminary injunction to enjoin a public housing authority from refusing to admit a former resident was denied. The resident argued that even though she had been evicted, illegally or otherwise, she was entitled to readmission to the development in light of a HUD circular dated December 17, 1968, which makes it improper to deny admission because of past poor rent paying habits. She also argued that she was entitled to a hearing in connection with the housing authority's refusal to readmit her.

Publications of Waiting Lists

Gautreaux v. Chicago Housing Authority (DC Ill. ND, E Div., No. 660 1459, 11-24-69.) A local housing authority had to make public its available waiting lists. Priorities were to be given to families displaced by governmental action or catastrophe and to disabled veterans receiving disability compensation. Also, special provisions were to apply to eligible applicants residing in community areas who were desirous of obtaining public housing in such areas as may become available, and special resident selection procedures were effected for four currently existing housing developments that were designed to prevent them from becoming racially segregated.

Evictions

1. Inform resident of the reason for the eviction notice.
2. Give resident the opportunity to reply in an informal conference.
3. Evictions can only be made for the following reasons:
 - exceeding income limits
 - non-payment of rent
 - other lease violations
4. Provide a hearing procedure.
5. Provide thirty (30) days notice prior to eviction.
6. Retaliatory evictions are prohibited.
7. Participation in resident organizations, including those opposed to management, is not a reason for eviction.
8. Filing a complaint with the local housing code enforcement agency or participating in a rent strike are not reasons for eviction.

(Federally-subsidized Public Housing Managers - No formal hearing is required, but management must permit the residents to exercise their due process rights in local courts.)

Examples of Court Decisions concerning evictions are as follows:

Conduct and Morals of Tenant's Children

Caulder v. Durham Housing Authority. (CA-4 1970) 433 F 2d 998. A resident against whom summary proceedings were brought by a public housing authority stated a good cause of action under the Civil Rights Act (42 U.S.C., Sec. 1983) when she alleged that the administrative hearing afforded her by the housing authority lacked the elements of due process. Although she had been told generally that the reason for terminating her lease was that other residents had complained of the conduct and morals of her children, at the hearing there was no right to confrontation and cross-examination; and her attorney's requests for the specifics of the charges, the names of the complainants, and the rules governing the manner in which the hearing would be conducted were denied. Under *Goldberg v. Kelly*, 397 U.S. 254, the resident was entitled to: (1) timely and adequate notice detailing the reasons for the proposed termination; (2) an opportunity to confront and cross-examine adverse witnesses; (3) the right to be fully represented by counsel; (4) a decision based on the evidence adduced at the hearing; and (5) an impartial decision maker. Accordingly, a judgement dismissing the action of the trial court was reversed and the case remanded.

Retaliatory Eviction

McLaughlin v. New York City Housing and Development Admin. (N.Y. Sup. Ct., Spec. Term, Part I, Bronx Co., 7-30-69.) Where a landlord sought to evict a resident under the New York City Rent and Eviction Regulations on the ground that the premises were required for the landlord's son whose family had increased, it was found that the eviction had not been brought in good faith. The evidence showed that the eviction action had not been commenced until after the resident had complained to the Department of Buildings about unsanitary and hazardous conditions on the premises. These facts indicated a reasonable basis for a finding that the eviction was brought in retaliation for the complaint.

Defective Housing Condition Barred Action

Firester v. Patterson (N.Y. City Civ. Ct., No. L & I 63964/70, 11-18-70) In an action by a landlord for non-payment of rent, a resident was required to pay only for use and occupation of the premises until such time as the landlord corrected housing code deficiencies. It was noted that before any landlord can collect rent, he must supply the services of heat, hot water, protection against the elements penetrating the premises, protection against vermin and rodents, and protection of the inhabitants with respect to defective

electrical fixtures. Accordingly, the landlord was not entitled to institute a summary proceeding for the collection of rent until the housing code violations are dismissed and the requirements of law satisfied.

Security

1. A security service must be provided.
2. It must take a "reasonable care" to protect residents.

Court decisions concerning security differ throughout the country. Managers should research the decisions in their own localities. Managers should be aware that they must provide a service that attempts to protect their own development. A minimal program that does not address problems may lead to court actions. Programs should at least cover:

- twenty-four hour surveillance
- adequate locks
- good lighting on hallways and basement areas
- resident education
- good lighting in exterior common areas.

Token Police Protection is Not sufficient

Ross v. New York City (N.Y. Sup. Ct. 1969) 305 N.Y.S. 2d 801, 162 N.Y.L.J. No. 112, P. 15. In action by a tenant against the New York City Housing Authority for the death of his child, based upon two separate causes of action - a survival cause for conscious pain and suffering and cause for wrongful death, the tenant, as administrator, was entitled to judgement in the sum of \$100,000 in the survival cause of action and in the amount of \$35,000 in the cause for wrongful death. It was held that the death of the nine-year old child, who, having finished her lunch at home, was on her way back to school, was due to inadequate police protection. The child had been seized near the rear entrance hall of the building by a resident of another building, who took her to the roof of the building, raped her, terrorized her and threw her over the roof to the pavement fourteen stories below. It appeared that the housing development had a history of crime ranging from malicious mischief to assault, rape and homicide, some of these incidents involving both adults and children. It also appeared that the Housing Authority was authorized, at its discretion, to provide and maintain a uniformed police force and had elected to assume the powers so permitted by law (New York Public Housing Law, Sec. 402.) However, it appeared further that only one housing police officer was assigned to the ten-building, sixteen-acre development. Moreover, it appeared that at the time of the crime, the housing police officer was out to lunch. Also, the building at which the crime was committed lacked the telephone call boxes connected with police headquarters that were installed on some of the other buildings. The inadequate police protection and the lack of other reasonable precautions constituted the proximate cause of death

of the child. It was pointed out that although no one could state categorically that if the Authority had provided adequate police protection and other reasonable precautions the child would be alive, it could nevertheless be said that such items would have served as substantial deterrents. It was held that to establish proximate cause, it is generally sufficient to show that the negligent conduct was a substantial factor in causing the injuries, and the fact that they might nevertheless have occurred without such negligence is not sufficient. Also, it was held that the criminal act of the attacker was an intervening act that was a reasonably foreseeable consequence of the Authority's negligence for it is impossible to view the criminal attack as unrelated to the total failure of supervision, police protection, and other reasonable precautions.

Reported Harassment Requires Police Protection

Matlof v. New York City Housing Authority. (N.Y. City Civ. Ct., Trial Term, Part XXXVI, 5-15-69.) A public housing authority was liable in damages to a resident who was injured by harassing teenagers in the development after she had complained to a housing authority police officer about the teenagers' threats to her. When the resident complained to the police officer, a particular relationship was created between her and the officer, and his failure to provide her with police protection immediately thereafter constituted a breach of duty that the housing authority owed the resident. Accordingly, motions to set aside the verdict of a jury in favor of the resident and to dismiss the complaint were denied.

INSTRUCTIONAL AIDS: TASK 1-A

Put a check next to the selections that are steps in the eviction process.

- a. Residency requirements are essential.
- b. Residents must be informed of the reason for the notice.
- c. Categories of people may not be included.
- d. Provide a hearing procedure.
- e. Provide thirty days notice.
- f. Establish retaliatory procedures.
- g. Provide opportunities for informal conferences.

GOAL AREA 2:

TO ENABLE YOU TO COMPLY WITH
RELEVANT LOCAL LAWS AND REGULATIONS

GOAL AREA 2: TO ENABLE YOU TO COMPLY WITH RELEVANT LOCAL LAWS AND REGULATIONS

LEARNING OBJECTIVES

1. You will identify the most important local regulation that affects housing managers.
2. You will define the four (4) key elements of the housing code.

ANTICIPATED PRACTICE OUTCOMES

1. You will examine a maintenance calendar for a hypothetical housing development and make two (2) suggestions for improving the calendar that are related to housing code stipulations.
2. You will be able to examine a list of resident complaints and explain prioritization according to housing code stipulations.

CONTENT

Housing Codes

Housing codes represent the most important aspect of governmental regulation in terms of the housing development. Building codes, electrical codes, plumbing codes, and fire prevention codes establish minimum standards. In some municipalities, these regulations are integrated into a single housing code. In others, they are embodied in separate regulations with enforcement delegated to separate agencies. Housing managers must acquaint themselves with the particular codes and agencies in their own localities.

Four key elements in housing codes are:

1. Coverage. Coverage usually applies to all residential properties within the jurisdiction of the governmental body which enacted the code: single and multiple-family units, owner-occupied and rental units; specialized dwellings; privately owned and public housing authorities.
2. Minimum Standards. Minimum standards include basic facilities: toilet, bath, water, heat, light, and ventilation: level of

maintenance: maintenance of foundations, ceilings, walls; floors, windows, stairways and equipment in basic facilities section; standards of occupancy: minimum floor space per occupant of the unit and minimum floor space for sleeping room occupancy.

3. Responsibilities of Management/Residents. Since the primary purpose of housing codes is to protect residents, most of the responsibilities fall to management. They are as follows:

- to provide basic facilities as defined by the local code;
- to maintain the common grounds, the exterior shell, the foundations, and the infrastructure;
- to provide essential services of heat, light, sanitation, and ventilation; and
- to inspect for overcrowded conditions.

Resident's responsibilities are as follows:

- to keep that part of the dwelling and facilities over which the resident has control and uses clean and in a sanitary condition.
- to dispose of rubbish and garbage in a clean and sanitary manner by using the facilities which the landlord is obligated to provide for such purposes.
- not to overcrowd the unit.

4. Enforcement

- Responsibility for enforcing the local codes, and
- Consequences of code violations.

Most housing codes are enforced by a unit within the local municipality. Frequently, this unit is the Department of Building and Housing Codes. In many localities, however, it is fragmented among numerous agencies. These may include Licensing Boards, Fire Departments, Health Departments, and Building Inspectors Departments. Some states infrequently authorize counties to adopt housing codes, in which case the administering unit may be the County Health Department. Since housing codes are remedial rather than penal, most violators of a housing code provision will first be given the chance to remove or correct the condition. The failure or refusal to do so, however, constitutes a misdemeanor under most codes punishable by fine or imprisonment. Additionally, some codes authorize the enforcement agency:

- to disclose a building unfit for human habitation and to order the residents to vacate,
- to order the landlord to demolish a building that falls into such disrepair that it endangers public health or safety,
- to make emergency repairs where necessary to protect the public health, and
- to take over the building by a court-appointed receiver.

Few code enforcement agencies, however, achieve the full potential of their statutory objectives. Unlike the building code (which is enforced through a system of permit

giving the governmental agency full control of the situation), a housing code becomes meaningful only if the landlord (or resident) is induced to behave in a certain fashion. Yet, since neither is under any obligation to keep records or file reports about their activities respecting the premises, the enforcement agency will not know whether their responsibilities are being carried out unless:

- there has been a complaint, or
- there has been an official inspection.

Complaints are haphazard and unreliable; official inspections are costly. Consequently, many housing code violations go unnoticed and uncorrected. In response to these problems, Congress passed legislation establishing the Federally Assisted Code Enforcement Program (FACE) in 1965. In essence, this program provides supplemental funding for staff to plan and administer programs of concentrated code enforcement in a limited area. In addition, funds are provided for municipal improvements in the enforcement area, such as street repairs and landscaping. There is also a limited amount of funds for loans and grants to property owners to minimize displacement or the imposition of onerous costs. The FACE program is administered by the U.S. Department of Housing and Urban Development. The administrative details of the program are contained in the *Code Enforcement Grant Handbook* (RHA 7250.1), issued in February, 1968. To ascertain whether a building is located in a Federally-Assisted Code Enforcement

area, the manager should contract the local office having code jurisdiction (Housing and Inspections).

Rent Control

Many jurisdictions have enacted rent control legislation. The effect of the legislation on the Housing Manager varies in different situations, since the legislation varies with the locality of the development. Each Manager should research relevant legislation in his particular area and discuss the interpretation of it with authorities in that area. Most rent control is instituted in jurisdictions for the following reasons:

- in emergency situations such as war, or
- to dampen inflationary trends and stabilize the economic situation in the city.

A wide variety of elements are included in rent control laws, and they vary considerably in scope and complexity among different jurisdictions. Specific kinds of items addressed are registration, audits, fees, rent ceilings, hardship, code compliance, retaliation, conversions, new construction, substantial rehabilitation, and eviction.

Planning and Zoning

Zoning is a public control device for carrying out land planning with respect to land use; it specifically limits the rights of private individuals. It involves the regulation by municipalities of such matters as the height and the use of a building as well as the use of land.

The influence of zoning can be far-reaching, especially in the development of vacant areas. Good zoning can eliminate the need for urban renewal. Zoning controls can prevent overbuilding, which can, in turn, overload community facilities like schools.

Zoning ordinances are passed:

- to protect locational integrity of individual parcels of land,
- to bring land developments into line with planned objectives,
- to assure compatibility of land use, and
- to control density.

Urban Renewal

Urban renewal programs are intended to provide housing to individual families in accordance with their space needs and capacity to pay.

Various urban renewal programs include efforts in the areas of land acquisition, replanning, demolition, rehabilitation, resale, and bringing structures that are sub-standard up to acceptable standards.

INSTRUCTIONAL AID: TASK 2-A

Answer True or False to the following questions.

- _____ a. Managers are responsible for maintaining a sanitary condition in housing developments.
- _____ b. The housing code is the least important regulation at the local level.
- _____ c. The housing code covers all residential and commercial building within the jurisdiction of the governmental body which enacts the code.
- _____ d. Some municipalities have single housing codes; in others, they are embodied in separate regulations.
- _____ e. Standards of occupancy refer to minimum floor space and sleeping space.
- _____ f. Most housing codes are enforced by a unit within the local municipality.
- _____ g. Some codes authorize emergency repairs where necessary to protect public health.
- _____ h. The enforcement agency is aware of code violations by the regular reports sent out from every housing development.
- _____ i. The Federally Assisted Code Enforcement Program (FACE) provides funds for maintenance.
- _____ j. Rent control is established in emergency situations or to stabilize economic situations in the city.

GOAL AREA 3:

TO ENABLE YOU TO COMPLY WITH RELEVANT
FEDERAL LEGISLATION AND GUIDELINES

GOAL AREA 3: TO ENABLE YOU TO COMPLY WITH RELEVANT FEDERAL LEGISLATION AND GUIDELINES

LEARNING OBJECTIVES

1. You will cite the four (4) most significant areas where HUD regulations and guidelines affect managers.
2. You will identify the responsibilities of managers with regard to the four (4) areas where HUD guidelines and regulations affect managers.

ANTICIPATED PRACTICE OUTCOMES

1. You will be able to write a managerial plan listing four (4) tasks for each of the most significant areas where HUD guidelines and regulations affect managers.
2. You will be able to write a managerial plan listing four (4) tasks for each of the most significant areas where HUD guidelines and regulations affect managers.

CONTENT

Legislation and Guidelines

Several legislative decisions have been established that directly affect the manner in which managers must carry out their daily activities.

Public Housing

The Housing Act of 1937 is the Federal statute under which the public housing program was developed. The statute provided funding of local authorities to build public housing units for low income families. To create Public Housing Authorities (PHAs), most state legislatures were required to pass enabling legislation. The authorities, as the creations of both the Federal and state governments, can receive Federal funding to build public housing and eventually gain full ownership of low rent housing developments. The PHA maintains its relationship with the Federal government through the Department of Housing and Urban Development (HUD) which pays the debt service, provides operating subsidies in some cases, and provides guidelines and regulations for the PHA's operations. The most significant guidelines and regulations which affect housing managers

are in the areas of:

- income definition
- project maintenance
- terms of the lease
- evictions and grievances

Income Definition

The annual contributions contract is the basic document which governs the relationship between HUD and the PHA. The contract gives the PHAs the right to establish income limits, set rent, and establish certain eligibility requirements for residents in accordance with the guidelines established by HUD. It makes HUD responsible for: (1) payment of debt service and (2) in some cases, operating subsidies; and requires PHAs to abide by circulars and regulations issued by HUD. HUD regulations and issuances spell out the responsibilities of management in relation to income limits, rents, and occupancy. In addition, the *Public Housing Authority Guide* spells out administrative procedures that affect responsibilities of managers.

The Guide explains in detail how to meet HUD procedural requirements for public housing; which HUD forms are required for various purposes; how to fill out HUD forms dealing with public housing, its budgeting, its development, its accounting, and its inventories; how many copies of various forms should be completed; and where they should be sent.

Project Maintenance

As discussed in Goal Area 2, each locality provides housing codes that affect the manager's responsibility for minimum conditions of occupancy, safety, and maintenance for all residential property.

Occupancy (Lease and Grievances)

HUD publications also specifically describe the mandatory lease and grievance procedures.* HUD requires managers to use leases that contain certain provisions outlined in the model lease, and requires a grievance procedure to be set up for each PHA.

Federally-Subsidized Housing

The requirements and guidelines that directly impact on the "rights and obligations" of owners and residents during occupancy are the following:

- Regulatory Agreement between HUD and the owner of the project.
- The Management Agreement and the Management Plan.
- HUD Guidelines.

The Regulatory Agreement

This agreement is the basic contract between HUD and the owner. In it, the owner, in exchange for HUD's insurance of the mortgage, consents to HUD's regulation of rents, charges, rate of return and the methods of operation. The following are the obligations assumed by the owner:

- to maintain the property in good condition and, generally, to provide for its management in a manner satisfactory to HUD;
- to maintain a reserve fund for replacement of structural elements and mechanical equipment;
- to obtain information from prospective and existing residents for purpose of certification and recertification of income;

* HUD.RHM - 7465.8 and 7465.9, *Lease and Grievance Procedures*.

- not to permit a resident to rent more than one unit at any given time without prior written approval of HUD;
- not to restrict occupancy because of the fact that there are children in the family except in developments "designed primarily for elderly persons";
- to establish a Rent Schedule with HUD approval (the rental charged for each unit shall include all utilities, except telephone); not to change the Rent Schedule without HUD approval;
- to limit occupancy in the project to those families whose incomes do not exceed the limits set forth by HUD, with the exception of those residents who agree to pay fair market rental;
- to comply with all laws governing discrimination on the grounds of race, color, creed, or national origin;
- to permit, without HUD's prior written approval, the use of dwelling accommodations for any purpose except the use which was originally intended;
- not to incur any liability, direct or contingent, other than for current operating expenses without HUD's prior written approval;
- not to make distribution of development assets or income except from surplus cash and except where there has been compliance with all outstanding notices or requirements for proper maintenance of the development;
- to keep the premises and books maintained in a reasonable

- condition for proper audit, subject to HUD inspection at any reasonable time by HUD;
- not to require as a condition of the occupancy or leasing of any unit any condition or deposit other than the pre-payment of the first month's rent plus a security deposit in any amount not in excess of one month's rent to guarantee the performance of the covenants of the lease; and
 - to keep any funds collected as security deposits separate and apart from all other funds of the development in a trust account, the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account.

The Management Agreement and the Management Plan

The Management Agreement refers to an agreement between a managing agent and an owner. Owners of HUD-insured multi-family developments and owners of Section 202 elderly developments cannot contract for outside management of units without HUD approval. When a development owner decides to contract out his management responsibilities to a management agent, he is required by HUD to submit a copy of the management agreement for approval. The rights and the responsibilities of the owner and of the agent are set forth in this agreement. HUD requires a detailed management plan to be developed before final approval is made. Such a plan must address most aspects of the management responsibility and include:

- orientation for residents;
- plans to carry out maintenance, repairs, security and safety programs;

- collection procedures;
- policy and procedures for handling grievances;
- policy and procedures for servicing resident requests;
- leasing policies and procedures;
- working with resident organizations;
- plans for evaluating support and participation of the residents; and,
- social service programs

Non-Insured 202 Elderly Developments: HUD Guidelines

Sponsor Involvement. The sponsor of the Section 202 development must be its moving force. HUD requires that the sponsoring owner remain actively involved. It further requires that the management of the 202 development be invested in a Board of Trustees acceptable to HUD.

This Board must be fully independent and broadly representative of public interest groups. Reasonable assurance must be made that there will be a continuity of a qualified Board of Directors over the life of the loan.

If this Board wishes to enter into a contract for management services, it must get HUD's prior written approval. The management contract must be acceptable to HUD and provide for termination upon thirty days written notice to the government.

Rental Scales and Fees. Initial rent schedules, fees, and other services (or any proposed change or charge for these) are subject to HUD approval or direction. Management is forbidden to accept "any contribution or gratuity as a basis for occupancy or occupancy preference."

Eligibility to Occupy. Section 202 projects are generally limited to

elderly and handicapped persons as defined by Federal law. Discrimination on the grounds of race, creed, color, or national origin is prohibited.

Subleasing. Units cannot be sublet.

Restrictions of Use. Section 202 projects cannot be used for hotels, transient purposes, nursing homes, hospitals, or other medical establishments.

Terms of Lease. Leases of less than one month or more than three years are prohibited.

Plan of Operation. At the beginning of each fiscal year of the project, the owner is required to prepare and submit an annual plan of operation and a supporting budget.

In addition to these guidelines, HUD issued in June of 1975 standards of certification for housing managers. These uniform standards were developed to overcome the fragmented individual requirements of the local and state governing bodies and to designate certain manager qualifications. Such standards for housing managers should enable them to carry out their responsibilities in a more professional and effective manner.

INSTRUCTIONAL AID: TASK 3-A

List at least five everyday management activities that arise from the manager's responsibility for project maintenance.

1. _____

2. _____

3. _____

4. _____

5. _____

POST-TEST

POST TEST: WHAT DID YOU LEARN?

1. *Which of the following are areas of management responsibility where court decisions have been handed down? Check appropriate selections.*
 - a. Occupancy
 - b. Plumbing
 - c. Rent Determination
 - d. Housing Policy
 - e. Admissions
 - f. Evictions
 - g. Statement of Eligibility
 - h. Security
 - i. Arbitrary Rent
 - j. Objective Standards

2. *Place the content areas of court decisions listed in the first question with the responsibilities they present for managers that are listed below.*
 - a. _____
 - Residency requirements are prohibited.
 - Written non-partial standards must be developed to use in determining eligibility.
 - Categories of people may not be excluded because they belong to a group who were formerly discriminated against (e.g. unwed mothers, ex-convicts, poor credit risks.)
 - Provide a statement of eligibility or ineligibility to applicants.
 - Allow for appeals of these determinations (with formal hearings.)

b. _____

- A service must be provided.
- It must take "reasonable care" to protect residents.

c. _____

- Notify residents about proposed rent actions.
- Allow residents the opportunity to respond to the proposed increases.
- Provide justification for proposed increases on the basis of economic need.
- Provide a hearing procedure for residents on proposed increases.
- Do not propose increases which exceed the limits set in the Brooke Amendment.

d. _____

- Inform residents of the reason for the notice.
- Give residents the opportunity to reply in an informal conference.
- Action can only be taken for the following reasons:
 - exceeding income limits
 - non-payment of rent
 - other lease violations
- Provide a hearing procedure.
- Provide thirty (30) days prior notice.
- Retaliatory actions are prohibited.
- Participation in resident organizations, including those opposed to management, is an invalid reason for action.
- Filing a complaint with the local housing code enforcement agency and participation in a rent strike are not reasons for action.

3. Which of the following rules and regulations is the most important for housing managers. Check the appropriate regulation.

- a. land regulations
- b. density controls
- c. zoning
- d. rent control
- e. municipal guidelines
- f. housing codes
- g. emergency standards
- h. sanitation code

4. Match the key factors in housing codes below with the elements they include.

- | | |
|--|--|
| <input type="checkbox"/> Coverage | a. To provide basic facilities; to maintain the common ground, the exterior shell, foundation and infrastructure; to provide essential services such as heat, light, sanitation, and ventilation; and to inspect for overcrowded conditions. |
| <input type="checkbox"/> Minimum Standards | b. Violators will be given a chance to correct conditions or suffer fine or imprisonment. |
| <input type="checkbox"/> Responsibilities | c. Usually covers all residential properties within the jurisdiction of the governmental body which enacted the code. Covers single and multiple-family units, owner-occupied and rental units, specialized dwellings, privately-owned and public housing authorities. |
| <input type="checkbox"/> Enforcement | d. Includes toilet, bath, water, heat, light, and ventilation; maintenance for foundations, ceilings, walls, floors, windows, stairways and equipment; minimum floor space per occupants of unit; and minimum sleeping room occupancy. |

5. *Indicate the four (4) most significant areas where HUD regulations and guidelines affect managers. Check appropriate selections.*

- a. Budgeting forms
- b. Terms of the lease
- c. State governments
- d. Operating subsidies
- e. Project maintenance
- f. Certification
- g. Mechanical equipment
- h. Evictions and grievances
- i. Methods of operation
- j. Insurance of the mortgage
- k. Income definition
- l. Housing programs

6. *Match the following items with their provisions.*

- | | |
|--|--|
| <input type="checkbox"/> Income Definition | a. Managers must determine management-resident responsibilities according to the provisions established in the model lease. |
| <input type="checkbox"/> Project Maintenance | |
| <input type="checkbox"/> Terms of the Lease | b. Managers must establish a procedure affording due process of law for all resident complaints and processes that end resident occupancy. |
| <input type="checkbox"/> Eviction and Grievances | c. The establishment of income limits, the setting of rent and certain eligibility requirements in accordance with HUD guidelines. |
| | d. Establishing of minimum conditions of occupancy, safety and maintenance for all residential property. |

SKILL-TEST

SKILL TEST: CAN YOU USE WHAT YOU HAVE LEARNED IN WORK SITUATIONS?

1. *Mr. Smith, the manager of a housing development, has been asked to design a flyer to be sent to prospective residents. Among other information, he is instructed to include some mention of the methods he uses concerning the four areas most likely to be subject to court actions (Rent Determination, Admissions, Evictions, Security.)*

Examine the flyer below that Mr. Smith has developed.

TODD MANOR: Todd Manor is located in the western section of a large urban city. It is surrounded on the east by factories and warehouses, on the south and west by small low-income family dwellings, and on the north by a river. The development includes seven structures, each with six floors, with 145 units per building.

The development, a four-year old complex, houses a 60% non-white and 40% white population. The same written standards apply to everyone seeking housing in the development.

Each building includes 40 efficiencies, 50 one-bedroom units, and 55 two-bedroom units. The basic rents are \$85, \$95, and \$110, respectively.

Management-resident cooperation is high. They work together to develop recreational programs, to improve the appearance of the building and the services offered and to set common rules and guidelines. Residents are expected to give thirty days notice before vacating a unit, and management is required to allow residents thirty-days notice before terminating a lease.

For application, stop in or write to:

Mr. Smith
Todd Manor
2000 Main Street
Citytown, M. 10000

2. *Below is a hypothetical letter, sent to an applicant from a housing manager, explaining why she has been refused admission.*

Dear Mrs. Jones:

I have reviewed your application and determined that your financial status makes you ineligible for housing in this development. In addition, upon checking with other sources, it does not seem possible that we can rent to you and your two children. You have not resided in this area sufficiently long. If you decide to stay, perhaps you can apply again.

Sincerely,


Mrs. Smith, Housing Manager

Examine the letter that has been sent and answer the following questions.

- a. Is there cause in the letter for taking action against the management?

_____ Yes

_____ No

- b. If so, why? If not, why not? (Give at least two reasons.)

3. Below is a maintenance calendar from a hypothetical housing development. Identify at least four (4) items that are performed to carry out housing code stipulations.

<u>MAINTENANCE CALENDAR</u>		
<u>JOB</u>	<u>TIME/DATE</u>	<u>STAFF</u>
___ a. Repair crumbling cinderblock at rear of Building A.	1:00 p.m. 1-12-77	Mr. Brown
___ b. Repair broken door handle in apartment C-1.	9:00 a.m. 1-12-77	Mr. Jones
___ c. Replace medicine cabinet in apartment B-14.	10:00 a.m. 1-12-77	Mr. Jones
___ d. Repair incinerator	9:00 a.m. 1-12-77	Ace Repair Co.
___ e. Repair closing device on rear door of Building D.	9:00 a.m. 1-12-77	Mr. Brown
___ f. Replaster bathroom ceiling in apartment A-4.	1:00 p.m. 1-12-77	Mr. Jones
___ g. Repair Washing Machine in basement of Building B.	9:00 a.m. 1-12-77	Downtown Washer Repair Company
___ h. Clean and reseal chimney in Building A.	9:00 a.m. 1-13-77	Mr. Brown
___ i. Replace bathtub drain in apartment C-4.	1:00 p.m. 1-13-77	Mr. Brown
___ j. Replace stairway treads.	9:00 a.m. 1-13-77	Mr. Jones
___ k. Repair hole in trash bin in Building D.	11:00 a.m. 1-13-77	Mr. Jones
___ l. Change bulbs in apartment D-1.	2:00 p.m. 1-13-77	Mr. Jones

4. *Below is a list of resident complaints from a hypothetical housing development. The list has been constructed in the order which the maintenance staff will complete them. Why has the manager chosen to list task completions in this order? (Keep in mind housing code stipulations.)*

- a. Trash bin lid has rusted closed and as a result trash and garbage has been piling up outside of Building A.

- b. A broken pipe in Apartment 3A makes it impossible to use the bathroom tub.

- c. A leaky faucet in Apartment 4B keeps the family awake all night.

- d. Apartment 10 is overrun with roaches.

5-6. Write a managerial plan for accomplishing the responsibilities encompassed in HUD Guidelines and Regulations. List four (4) tasks under each of the four (4) areas listed below.

MANAGERIAL PLAN

a. Income Determination

1. _____
2. _____
3. _____
4. _____

b. Project Maintenance

1. _____
2. _____
3. _____
4. _____

c. Terms of the Lease

1. _____
2. _____
3. _____
4. _____

d. Evictions and Grievance Procedure

1. _____
2. _____
3. _____
4. _____

APPENDIX

MODEL LEASE FORM

1. DESCRIPTION OF THE PARTIES AND PREMISES. The _____

(Local Housing Authority) (Management) does hereby lease to

(Tenant) the dwelling unit de-
scribed below, under the terms and conditions stated herein.

Address _____
Occupancy Date _____

2. AMOUNT AND DUE DATE AND RENTAL PAYMENTS. Monthly rent of \$ _____
shall be due and payable in advance on the _____ of each month begin-
ning _____ 19____. This rent will remain in effect unless
adjusted in accordance with the provisions of Section 5 hereof.

(Alternate provision may be used if it is determined that a tenant may
pay rent in installments, as per example, "monthly rent of \$ _____
shall be due and payable in advance in _____ installments
on the _____ day and _____ day of each month beginning _____
19____.")

3. SECURITY DEPOSIT. (Security deposits are not necessarily required.
If it is determined not to have a security deposit this section shall
be eliminated. If security deposits are utilized, the alternate pro-
cedures for their collection are indicated.)

Tenant agrees to pay \$ _____ as a security deposit to be used by
Management at the termination of this lease toward reimbursement of
the cost of repairing any intentional or negligent damages to the
dwelling unit caused by Tenant, his family, or dependents, and any
rent or other charges owed by Tenant. Payment of the security deposit
is to be made (upon occupancy) (by payment of \$10 upon occupancy and
\$2 per month for the following _____ months of occupancy until the
balance is paid.)

(The following provisions may be used to provide for interest on
security deposits.)

Management agrees to deposit such security deposit in an interest-
bearing account, crediting such interest as may accrue to Tenant's
security deposit. Management agrees to return the security deposit,
with such accrued interest as may have been earned, to Tenant when he
vacates, less any deductions for any of the costs indicated above.
If such deductions are made, Management will give Tenant a written
statement of any such costs for damages and/or other charges to be
deducted from the security deposit. The security deposit may not be
used to pay rent or other charges while Tenant occupies the dwelling
unit.

4. UTILITIES. Management agrees to furnish the following utilities in accordance with the current Schedule of Utilities posted in the Project Office:

(List utilities to be furnished)

Management will not be responsible for failure to furnish utilities by reason of any cause beyond its control.

(If heat is to be furnished by Management, add:
Management agrees to furnish heat when necessary or as specified by local law.)

(If heat is to be furnished by Tenant, add:
Tenant agrees to furnish heat to the dwelling unit and agrees to maintain sufficient heat to prevent freezing of piped water. If for any reason, Tenant is unable to maintain sufficient heat, he shall immediately notify Management. Tenant will be charged for any damages resulting from his failure to maintain sufficient heat or to notify Management, unless for any cause beyond his control.)

5. REDETERMINATION OF RENT, DWELLING SIZE, AND ELIGIBILITY. Once each year (once every two years if elderly tenant) as requested by Management, Tenant agrees to furnish accurate information to Management as to family income, employment, and composition, for use by Management in determining whether the rental should be changed, whether the dwelling size is still appropriate for Tenant's needs, and whether Tenant is still eligible for low-rent housing. This determination will be made in accordance with the approved Schedule of Rents and Statement of Income and Occupancy Limits available in the Project Office:

- a. Rent as fixed in Section 2 hereof or as adjusted pursuant to the above will remain in effect for the period between regular rent redetermination unless during such period:

- (1) Tenant can show a change in his circumstances (such as a decline in income) which would justify a reduction in rent pursuant to the Schedule of Rents or such other circumstances as would create a hardship situation.
- (2) Tenant commences to receive public assistance or his public assistance is terminated. Such a change must be reported to Management within ten (10) days of its occurrence.
- (3) It is found that Tenant has misrepresented to Management the facts upon which his rent is based, so that the rent he is paying is less than he should have been charged. If this is found then the increase in rent may be made retroactive.

In the event of any rent adjustment pursuant to the above, Management will mail or deliver a "Notice of Rent Adjustment" to Tenant in accordance with Section 9 hereof. In the case of rent decreases, the adjustment will become effective the first of the following month. In case of rent increases, the adjustment will have effect the first of the second following month, unless the rent increase results from a finding of intentional misrepresentation under Section 5a(3) above.

- b. If Management determines that the size of the dwelling unit is no longer appropriate to Tenant's needs, Management may amend this lease by notice to Tenant, in accordance with Section 9 hereof, that Tenant will be required to move to another unit within the project in which he lives, giving Tenant a reasonable time in which to move.
 - c. If Management finds that Tenant's income has increased so that it is above the approved income limits for continuing occupancy in low-rent housing, Management will then determine whether or not Tenant can, with reasonable effort, find other suitable housing.
 - (1) If Management determines that due to special circumstances Tenant will be unable to find other suitable housing, Tenant may remain in low-rent housing so long as the special circumstances exist, but the monthly rental will be increased in accordance with the approved Schedule of Rents. Management will notify Tenant of the rent adjustments in accordance with Section 9 hereof. The adjustment will become effective the first of the second following month.
 - (2) If Management determines that Tenant can, with reasonable effort, find other suitable housing, it will notify Tenant that Tenant has _____ months to find other housing and move, in accordance with Section 9 hereof.
6. OCCUPANCY OF THE DWELLING UNIT. Tenant agrees not to assign this lease, nor to sublet or transfer possession of the premises; nor to give accommodation to boarders or lodgers without the written consent of Management. Tenant further agrees not to use or permit the use of the dwelling unit for any purpose other than as a private dwelling unit solely for Tenant and his family and/or dependents. This provision does not exclude reasonable accommodation of tenant's guests or visitors. Tenant agrees to abide by such necessary and reasonable regulations as may be promulgated by Management for the benefit and well being of the housing project and its tenants.
7. DAMAGE AND REPAIR. Tenant shall use reasonable care to keep his dwelling unit in such condition as to prevent health or sanitation problems from arising. Tenant shall notify Management promptly of known need for repairs to his dwelling unit, and of known unsafe conditions in the common areas and grounds of the project which may lead to damage or injury. Except for normal wear and tear, Tenant agrees to pay reasonable charges for repair of intentional or negligent damage to the leased premises or

project caused by Tenant, his family, or dependents. Such charges shall be billed to Tenant and shall specify the items of damages involved, correctional action taken, and the cost thereof. Management agrees to accept rental money without regard to any other charges owed by Tenant to Management, and to seek separate legal remedy for the collection of any other charges which may accrue to Management from Tenant.

Management shall maintain the buildings and common areas and grounds of the project in a decent, safe, and sanitary condition in conformity with the requirements of local housing codes and applicable regulations or guidelines of the Department of Housing and Urban Development. Management shall make all necessary repairs, alterations, and improvements to the dwelling unit with reasonable promptness at its own cost and expense, except as otherwise provided in this Section. If repairs of defects hazardous to life, health, and safety are not made or temporary alternative accommodations offered to the Tenant within seventy-two hours of ability to correct the defect or obtain the correction thereof, then Tenant's rent shall abate during the entire period of the existence of such defect while he is residing in the unrepaired dwelling. Rent shall not abate if the tenant rejects reasonable alternative temporary accommodation.

(Additional provisions may be inserted where Tenant assumes maintenance responsibilities.)

8. INSPECTIONS. When Tenant moves in, Management shall inspect the dwelling unit and shall give Tenant a written statement of the condition of the dwelling unit and the equipment in it. Tenant and/or his representative may join in such inspection.

Tenant agrees that the duly authorized agent, employee, or representative of Management will be permitted to enter Tenant's dwelling unit for the purpose of examining the condition thereof or for making improvements or repairs. Such entry may be made only during reasonable hours, after advance notice in writing to Tenant of the date, time, and purpose, provided, however, that Management shall have the right to enter Tenant's dwelling unit without prior notice to Tenant if Management reasonably believes that an emergency exists which requires such entrance. Management must promptly notify Tenant in writing of the date, time, and purpose of such entry, and of the emergency which necessitated it.

When Tenant vacates, Management will inspect the dwelling unit and give Tenant a written statement of the charges, if any, for which Tenant is responsible. Tenant and/or his representative may join in such inspection.

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