

# **ADMISSIONS AND OCCUPANCY POLICY**

## **SECTIONS 9.0 AND 10.0**

- 9.0 Tenant Selection and Assignment
- 10.0 Income, Exclusions from Income, and Deductions from Income

## **9.0 TENANT SELECTION AND ASSIGNMENT**

### **9.1 PREFERENCES**

The Housing Authority will select Applicant families based on the following preferences within each unit size category:

- A. Applicants with Special Provision (“Special Provisions” preference), which includes low-or very low-income Applicants who resided at the Harbor Island Apartments (formerly Bridgeport Apartments) prior to September 1987, referred to and accepted by the Owner, have first priority in occupying any new construction units funded by the Affordable Housing/Unit Fee Program or, redevelopment program. (A separate waiting list is maintained for these persons.)
- B. Alameda residents (residency preference). This residency preference is limited to the jurisdictional boundaries of the city of Alameda. Use of the residency preference will not have the purpose or effect of delaying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family. Applicants who live or work in Alameda at the time of application qualify for this preference.
- D. Members of the military and veterans and their families.
- E. Family preference, which includes families with two or more persons, seniors 62 years of age or older, and families in which the head or spouse is a person with disabilities.

#### **Ranking Preferences**

Preferences will be ranked in the following order:

1. Residency Preference
2. Military/Veterans Preference
3. Family Preference

The date and time of application will be noted and utilized to determine the sequence within the above-prescribed preferences.

**Buildings Designated as Elderly Only Housing:** Independence Plaza, Anne B. Diamant Plaza, Lincoln/Willow and the Condominiums are designated for elderly only.

**Accessible Units:** Accessible units will be first offered to families who may benefit from the accessible features. Applicants for these units will be selected utilizing the same preference system as outlined above. If there are no applicants who would benefit from the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, must sign a release form stating they will accept a transfer if, at a future time, a family requiring an accessible feature applies.

A wheelchair-accessible unit will be offered to current participants who require this type of unit during the first 14 days that a wheelchair accessible unit becomes available. After the 14-day period has ended and if no current participant has opted to take the wheelchair accessible unit, the unit will become available to applicants with this preference.

## 9.2 OCCUPANCY STANDARDS

The following guidelines will determine each family's unit size without overcrowding or over-housing:

No. of Bedrooms	Minimum*	Maximum at Move-In	Maximum for Continued Occupancy**
0	1	1	1
1	1	2	3
2	2	4	5
3	4	6	7
4	6	8	9
5	8	10	11

\* Exceptions to minimums will be made if a medical need for a separate bedroom is established.

\*\* Households showing the maximum shall be put on the transfer list.

These standards provide one bedroom for every two persons, except for:

- A. The head of household will be given a separate bedroom from a minor for whom that person is the primary caretaker.
- B. For verified reasons of health, an additional bedroom subsidy may be provided for:
  - 1) a live-in aide,
  - 2) medical equipment which requires a separate room because of size or function, or
  - 3) a family member who must have a separate bedroom due to some other medical condition.
  - 4) as a reasonable accommodation of a tenant's disability.

In addition, the following considerations may be taken in determining unit size:

- A. Children and their single, head-of-household parent will not be required to share a bedroom. An applicant may request and be granted an exception to share a bedroom with a child.
- B. If an applicant is expecting a child (i.e. birth, legal custody, or adoption), that child will be included when establishing occupancy.

### **Live-In Aide/Extra Bedroom as a Disability Accommodation**

A near elderly (50 to 61 years of age) or elderly household member with a disability may be eligible to add a live-in aide to the unit if it is shown that a live-in aide is necessary to afford the household member an equal opportunity to use and enjoy their rental unit.

A live-in aide is not considered a household member. The live-in aide's income will not be counted in the family's income. Once a person becomes a live-in aide, they are prohibited from ever becoming a household member and will not be eligible to continue receiving housing assistance as a remaining household member.

Before a person can move into a managed unit as a live-in aide, a tenant must first complete the live-in aide request form and sign a release form authorizing the Housing Authority to complete a criminal history check. Once the Housing Authority approves an individual as a live-in aide, both the tenant and the aide also must sign the Live-In Aide Agreement Form.

If the addition of the live-in aide causes the unit to be overcrowded, as defined in the Housing Authority's occupancy standard, the Housing Authority will permit the family to request a transfer to a larger unit.

Since the number of larger units is limited and there are many eligible families on the waiting list, the Housing Authority must ensure that a live-in aide is necessary to afford the tenant equal opportunity to use and enjoy the unit.

### **Requirements for a Live-In Aide or Extra Bedroom**

A family requesting a live-in aide or an extra bedroom as a disability accommodation must provide verification that the member of the household meets the definition of a disabled person. The Housing Authority also requires third-party verification from a health care professional competent to determine whether the requested accommodation is necessary to afford the disabled tenant equal use and enjoyment of the unit.

### **Process for Consideration of Live-In Aide Request**

For the Housing Authority to consider a tenant's request for a live-in aide or extra bedroom, the tenant must follow the Authority's procedures for third party verification.

The Housing Authority will then review and verify all information regarding the request and either approve or deny the live-in aide or additional bedroom request. If the Housing Authority denies the request, the grounds for denial will be provided in writing to the tenant. The tenant is entitled to request an informal hearing to appeal the decision within 14 calendar days of the date of the denial letter.

If the tenant is denied a live-in aide or an extra bedroom, the tenant may reapply for the accommodation when a material change in their situation justifies reconsideration of the subject.

### **Temporary Aide While Decision is Pending**

For tenants who stipulate that the family must have a live-in aide immediately and would be harmed by the delay of processing the request, the Housing Authority will extend its visitor policy beyond the 14 calendar-day limit as a reasonable accommodation of a disabled tenant, provided the Housing Authority was notified in advance of the person staying with the tenant and agrees to the arrangement. Upon issuance of a final notice of a determination that the aide is not approved, the aide must leave the unit within 14 calendar days of the date of the denial letter.

### **Family Members as Caretakers or Live-In Aides**

The Housing Authority encourages families to care for their elderly and disabled members. The Housing Authority will allow family caretakers to be included as part of the assisted household, granting the family a unit with an additional bedroom, when appropriate. The family caretaker's income is included in the household's income determination and occupancy standard. For example, a family member's income from an In-Home Supportive Service program is included as household income, as that income is not paid by the disabled person as a medical expense.

The Housing Authority presumes that a relative is a household member, not a live-in aide. For a relative to qualify as a live-in aide, the tenant must show that the care provided is an arms-length transaction. To do this, the family must certify that:

- 1) The person is capable of providing the required care for the tenant;

- 2) The person has never been a member of the household while the family was receiving assistance, nor has the person made regular financial contributions to the household while the family was receiving assistance;
- 3) There is no other reason for the person to live in the unit other than to provide care for the disabled tenant; and
- 4) The person intends to maintain his or her finances.

If a family member qualified as a live-in aide, then all policies and restrictions that apply to live-in aides will apply to that person.

### **9.3 SELECTION FROM THE WAITING LIST**

Selection from the waiting list will be based on the family's preferences, unit size, elderly or disabled status, and the need for an accessible unit. The selection will also depend on the characteristics of the unit being offered.

### **9.4 DECONCENTRATION POLICY AND INCOME TARGETING**

The AHA does not have any general occupancy (family) public housing developments covered by HUD's deconcentration rule.

Income mixing for Esperanza results in the formation of a more stable and cohesive resident community. Working families become positive role models for other families in the community who still rely on public assistance. The increased rental revenue also reduces the Housing Authority's dependence on the federal government.

#### **9.4.1 Income Targeting**

Esperanza (public housing): At least 40 percent of families admitted to public housing by the Housing Authority must have incomes that do not exceed 30 percent of the area's median income. The Housing Authority may admit less than 40 percent of the families with incomes below 30 percent of the median income (extremely low income families) in a fiscal year to the extent that they have provided more than 75 percent of newly available vouchers to extremely low income families. This provision is called "fungibility."

The Housing Authority has the flexibility with its public housing targeting requirements if it increases its Section 8 targeting. The maximum flexibility that can be applied to public housing is 10 percent. To use fungibility, the Housing Authority must demonstrate that a percentage of its public housing units in high poverty areas are occupied by families with incomes that exceed 30 percent of income, and that 75 percent of residents in the Section 8 program are very low-income. Once the targeting requirements are met, the Housing Authority may serve additional households up to 80 percent of median income in its public

housing program. The skipping of a family on the waiting list to reach another family in order to implement the policy under this section shall not be considered an adverse action and shall not be contested.

#### Incentives for Working Families

- a. The Quality Housing and Work Responsibility Act of 1998 requires that housing authorities establish a flat rent for public housing units (Esperanza) based on the rental value of the unit. This option will be made available to tenants after September 30, 1999. The Housing Authority will conduct a rental survey of unassisted units in the area to assist in determining the market value of the public housing units.
- b. The Housing Authority will also consider the per unit operating cost in establishing flat rents. Flat rents are designed to encourage and reward employment and economic self-sufficiency. Residents who find jobs resulting in higher-income will not have their rents increase above this flat rent. This provides an incentive for higher-income tenants to remain in public housing. Another incentive provided by a flat rent is that tenants will only be required to go through a full recertification once every three years.

### **9.5 OFFER OF A UNIT**

When the Housing Authority learns that a unit will become available, staff will contact the first family on the waiting list who has the highest priority for the type of unit or complex and whose income category would help to meet the deconcentration goal or the income-targeting goal.

The Housing Authority will notify the family that a unit is available.

The family will be offered the opportunity to view the unit. After the opportunity to view the unit, the family will have two calendar days to accept or reject the unit. This verbal offer and the family's decision must be documented in the tenant file. If the family rejects the offer of the unit, the Housing Authority will send the family a letter documenting the offer and the rejection.

### **9.6 REJECTION OF UNIT**

If in making the offer to the family, the Housing Authority skipped over other families on the waiting list in order to meet their deconcentration goal or offered the family any other deconcentration incentive and the family rejects the unit, the family will not lose its place on the waiting list and will not be otherwise penalized.

If the Housing Authority did not skip over other families on the waiting list to reach this family, did not offer any other deconcentration incentive, and the family

rejects the unit without good cause, the family will be considered to have rejected one offer of housing assistance. The family will retain its place on the waiting list following a rejection. Families are allowed to refuse three suitable vacant units before being removed from the waiting list.

If the family rejects with good cause any unit offered, the family will not lose its place on the waiting list. Good cause includes reasons related to health, proximity to work, school, and childcare (for those working or going to school).

[Note: See Section 7.4 for additional information on rejecting a unit.]

## **9.7 ACCEPTANCE OF UNIT**

The applicant will be provided a copy of the lease, which includes the grievance procedure for Esperanza residents, utility allowances, utility charges, and the current schedule of routine maintenance charges. These documents will be explained in detail.

The signing of the lease and the review of financial information are to be privately handled. The head of household, and all adult family members in the case of an Esperanza tenancy, will be required to sign the lease prior to admission. One signed copy of the lease will be furnished to the head of household and the Housing Authority will retain the original signed lease in the tenant's file.

The family will pay a security deposit at the time of lease signing. The security deposit will be equal to the Total Tenant Payment.

In hardship situations, the Housing Authority reserves the right to allow a new resident to pay the security deposit in installments. Taking payments for the security deposit shall be at the sole discretion of the Housing Authority and only in cases of hardship.

In the case of a transfer, the security deposit for the first unit (minus any damage costs) may be transferred to the second unit. Additionally, if the security deposit for the second unit is greater than that for the first, the difference will be collected from the family. Conversely, if the security deposit is less, the difference will be refunded to the family.

In the event there are costs attributable to the family (above normal wear and tear) for the first unit, the family shall be billed for these charges. Refer to Appendix F, the Schedule of Charges for Maintenance Services.

## **10.0 INCOME, EXCLUSIONS FROM INCOME, AND DEDUCTIONS FROM INCOME**

To determine annual income, the Housing Authority counts the income of all family members, excluding the types and sources of income that are specifically

excluded. Once the annual income is determined, the Housing Authority subtracts all allowable deductions (allowances) to determine the Total Tenant Payment.

## 10.1 INCOME

Annual income means all amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

Annual income includes, but is not limited to:

- A. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- B. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is a reimbursement of cash or assets invested in the operation by the family.
- C. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
- D. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or

prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)

- E. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
1. If the amount of welfare is reduced due to an act of fraud by a family member or because of any family member's failure to comply with requirements to participate in an economic self-sufficiency program or work activity, the amount of rent required to be paid by the family will not be decreased. In such cases, the amount of income attributable to the family will include what the family would have received (i.e., imputed welfare income) had the family complied with the welfare requirements or had not committed an act of fraud.

The Housing Authority will ask the welfare agency to inform the Authority of any welfare benefit reduction that may result in imputed welfare income, the term of the reduction, and the amount of a specified welfare benefit reduction. The imputed welfare income, as determined by the welfare agency, will be counted in determining income-based rent for Esperanza residents and Section 8 tenant-based residents only after the Housing Authority has received notice of the welfare reduction from the welfare agency.

If the family claims that the Housing Authority has not correctly calculated the amount of imputed welfare income and the Housing Authority denies the family's request to modify such amount, the Housing Authority will give the family written notice of such denial, including a brief explanation of the basis for the determination. The Housing Authority will advise the family that it may invoke the Housing Authority's regular program hearing processes for review of the determination of the amount of imputed welfare income. An Esperanza tenant is not required to place the disputed rent amount into escrow to obtain a grievance hearing. Refer to Appendix E.

2. If the amount of welfare assistance is reduced as a result of a lifetime time limit, the reduced amount is the amount that shall be counted as income.
- G. Periodic and determinable allowances, such as alimony, child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.

- H. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

## **10.2 ANNUAL INCOME EXCLUSIONS**

Annual income does not include the following:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- C. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses;
- D. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution;
- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. The amounts received from the following programs:
  - 1. Amounts received under training programs funded by HUD;
  - 2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;
  - 4. Amounts received by Esperanza residents under a resident service stipend. A resident service stipend is a modest amount (not to exceed

\$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;

5. Temporary, nonrecurring or sporadic income (including gifts);
6. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
7. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
8. Adoption assistance payments in excess of \$480 per adopted child;
9. For Esperanza family members who enrolled in certain training programs prior to October 1, 1999, the earnings and benefits resulting from participation if the program provides employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the 1937 Act (42 U.S.C. 1437t), or any comparable Federal, State, or local law during the exclusion period. For purposes of this exclusion the following definitions apply:
  - a. Comparable Federal, State or local law means a program providing employment training and supportive services that:
    - 1) Is authorized by a Federal, State or local law;
    - 2) Is funded by the Federal, State or local government;  
Is operated or administered by a public agency; and
    - 3) Has as its objective to assist participants in acquiring employment skills.
  - b. Exclusion period means the period during which the family member participates in a program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause, the exclusion period shall end.
  - c. Earnings and benefits means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.

- d. Those families who qualified previously for the 18-month exclusion must be permitted to retain those exclusions until the family's next reexamination.
10. The incremental earnings due to employment during the 12-month period following date of hire shall be excluded for Esperanza families. This exclusion will not apply for any family who concurrently is eligible for the exclusion outlined in item 10 above. Additionally, this exclusion is only available to the following Esperanza families:
- a. Families whose income increases as a result of employment of a family member who was previously unemployed for one or more years.
  - b. Families whose income increases during the participation of a family member in any economic self-sufficiency program.
  - c. Families who are or were, within 6 months, assisted under a State TANF program, if that assistance is at least \$500 for the six-month period.

While HUD regulations allow for the Housing Authority to offer an escrow account in lieu of having a portion of their income excluded under this paragraph, it is the policy of this Housing Authority to provide the exclusion in all cases.

11. Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
12. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
13. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
- a. The value of the allotment of food stamps
  - b. Payments to volunteers under the Domestic Volunteer Services Act of 1973
  - c. Payments received under the Alaska Native Claims Settlement Act

- d. Income from submarginal land of the U.S. that is held in trust for certain Indian tribes
- e. Payments made under HHS's Low-Income Energy Assistance Program
- f. Payments received under the Job Training Partnership Act
- g. Income from the disposition of funds of the Grand River Band of Ottawa Indians
- h. The first \$2,000 per capita received from judgment funds awarded for certain Indian claims
- i. Amount of scholarships awarded under Title IV including Work Study
- j. Payments received under the Older Americans Act of 1965
- k. Payments from Agent Orange Settlement
- l. Payments received under the Maine Indian Claims Act
- m. The value of childcare under the Child Care and Development Block Grant Act of 1990
- n. Earned income tax credit refund payments
- o. Payments for living expenses under the Americorps Program
- p. Additional income exclusions provided by and funded by the Housing Authority. The Housing Authority will not provide exclusions from income in addition to those already provided for by HUD.

### **10.3 DEDUCTIONS FROM ANNUAL INCOME**

The following deductions will be made from annual income:

- A. \$480 for each dependent;
- B. \$400 for any elderly family or disabled family;
- C. For any family that is not an elderly or disabled family but has a member (other than the head or spouse) who is a person with a disability, disability assistance expenses in excess of 3% of annual income. This allowance may not exceed the employment income received by family members (including

the person with disabilities) who are 18 years of age or older who are able to work as a result of the assistance to the person with disabilities.

D. For any elderly or disabled family:

1. That has no disability assistance expenses, an allowance for medical expenses equal to the amount by which the medical expenses exceed 3% of annual income;
2. That has disability expenses greater than or equal to 3% of annual income, an allowance for disability assistance expenses computed in accordance with paragraph C, plus an allowance for medical expenses that equal the family's medical expenses;
3. That has disability assistance expenses that are less than 3% of annual income, an allowance for combined disability assistance expenses and medical expenses that is equal to the total of these expenses less 3% of annual income.

E. Reasonable childcare expenses.