# Great Lakes Multifamily

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# **SPECIAL FEATURE**

**Fair Housing and Equal Opportunity** (Final installment of a three-part series)

**Application Do's** 

Many properties that are renting up for the first time or opening their waiting lists after several years find themselves with busloads of applicants when their offices open. Properties that use a firstcome, first-served application process may not be treating all applicants fairly, although they certainly intended to do so.

The Fair Housing Amendments Act requires all landlords and housing managers to provide equal access to people with disabilities. Unlike other anti-discrimination laws, the FHAA says that providing equal access doesn't just mean not turning people away, it can also mean taking affirmative steps to remove obstacles for people with disabilities.

The "first-come, first-served" approach that many providers use creates a number of obstacles for people with disabilities. In a tight housing market, if applications are taken on a first-come, first-served basis, many applicants will begin lining up as much as 24 hours ahead of time. People with physical disabilities may be unable to withstand such a long wait.

Multifamily Hub News Staff         Multifamily Hub Director Barbara Chiapella         Acting Director, Operations— Patricia Russie         Editor-In-Chief— Susie Sapilewski         Design, Layout, Advisor— Phillip Hebenstreit         The Multifamily Hub News is distributed to Hub clients as well as other interested parties.         Newsletter comments may be directed to Phillip Hebenstreit at Phillip Hebenstreit@HUD.GOV         Subscriptions: The Detroit Multifamily HUB, USDHUD "Great Lakes Multifamily" newsletter is published on a quarterly basis and distributed free of charge to registered subscribers. To subscribe please go to this website: www.hud.gov/subscribe/index.cfm Select         The Michigan Multifamily Newsletter	Housing providers who are opening their waiting lists and who want to accept applications for a limited period of time are strongly encouraged to use a lottery process. The goal of a lottery system is to diminish the frenzy involved in huge numbers of people applying for limited numbers of units (or even for slots on waiting lists). A lottery model avoids the "survival of the fittest" phenomenon that occurs in extremely competitive housing markets. The chart below provides some practical suggestions to increase accessibility to people with disabilities, and to create a fair, accessible process for all applicants, including people with disabilities. Continued on Page 3
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Contact Information: Detroit: (313) 226-4900 Grand Rapids: (616) 456-2100	

Application Do's (continued)	
Do	Why
Review your Affirmative Fair Housing Marketing Plan (AFHMP) and Resident Selection Plan	Your site should have both an AFHMP and a resident selection plan. The AFHMP outlines the strategies you must use whenever you market units at your property, including how to notify potential applicants that a waiting list is open. The purpose of the plan is to ensure that you market in compliance with federal fair housing laws and take steps to attract groups that normally wouldn't be likely to apply without special outreach efforts. The Resident Selection Plan says how you'll rank applicants on the waiting list, including any allowed preferences.
Notify the Public	Mail or fax a notice to the organizations indicated on your AFHMP. Your notice should: •Advise the organizations that you've opened a waiting list at your site, mentioning the size of the available units and any applicable preferences. •State when and how to get applications (i.e., in person or by mail) Give the deadline, if any, for submitting applications •State the ranking process (i.e., random drawing) •Mention any other open lists available •Include required fair housing information such as the fair housing logo, statement, or slogan.
Provide an open application window of 2 weeks or more	This allows applicants to submit an application who may not be able to get to the property on a specific day.

Application Do's (continued)	
Do	Why
Use a Pre-Application	This saves time and money. A pre-application form asks applicants for the essential eligibility and screening information, but requires less time and effort for applicants to fill out and site staff to process. In many cases, a completed pre-application will make it immediately obvious that a household is not eligible and may be rejected. This also prevents the long waiting lists that may contain many ineligible applicants, and lets applicants know immediately if they will be considered and placed on the waiting list.
Allow different methods for submitting a pre-application or application	Some people with disabilities may have difficulty leaving their home, and need to apply by mail. Others may need assistance filling out forms and/or understanding the application process and need to apply in person. Those who have difficulty with both travel and forms may need assistance over the phone. (We realize that for a full application, taking information solely by phone may not be possible, given the need for documentation and a signature. The goal is to minimize the number of trips a person has to make to the site if a disability makes travel difficult.)
Include a space on the pre-application or application to list a second contact with contact phone and address.	People with cognitive and psychiatric disabilities may be living independently but may have difficulty understanding letters sent to them. They could miss important deadlines.
In designing the application form, strive for simple, clear language, in large, bold print.	The easier it is to understand and fill out, the fewer questions for assistance you will receive, saving staff time.
Have staff available to help people with the application itself, and to explain the application process.	People with vision impairments or cognitive disabilities are likely to need assistance filling out the application. A clear process helps everyone to feel that it is fair.
Provide notice in the application and on the site informing that assistance is available in the application process, and how to get it.	It people are not aware of the availability of assistance, they may assume it does not exist. (Federal law also requires notice to clients of their rights.)

Application Do's (continued)	
Do	Why
Provide some form of a receipt for both the	This helps protect the housing provider. If
pre-application and the application. (For	clients insist that they applied, but do not see
phone pre-apps, this can just be a confirmation	their name on the lottery or waiting list, they
number.)	would have the receipt (or not) to prove they
Conduct Dandom Drawing to Dank Applications	had submitted an application.
Conduct Random Drawing to Rank Applications	Many sites rank waiting list applications on a first-come, first-served basis. Though HUD
	permits you to do this, it may not be the most
	effective way to handle an opening if you're
	expecting a large number of applicants.
Notify applicants of their placement on the	HUD requires that you notify applicants when
waiting list	you place them on your waiting list and give
	them an estimate of when an appropriate unit
	may be available. It's a good idea to notify
	applicants in writing so documentation is on file.
	Your letter should state:
	•They appear to be eligible, but that a final
	determination of their eligibility will be made
	when they reach the top of the waiting list. Be careful not to give the impression that you
	are guaranteeing their future admission;
	Provide an estimate of the length of time they
	will be on the waiting list before a unit becomes
	available based on past turnover.
	·Ask applicants to notify you of any changes to
	their household, income, or contact information
	and to keep in touch periodically to
	confirm they want to remain on the waiting list.

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The U.S. Census Bureau has reported data from the 2000 census which indicates that over eight percent of Americans replied that they spoke English less than well. In California, that percentage who speak English less-than-well is 20%. Nationwide, 26 million individuals reported that they primarily speak Spanish at home, and almost seven million individuals reported that they spoke an Asian or Pacific Island language at home.

Can you imagine how difficult it would be to complete a rental application, or read a lease or house rules, if you couldn't understand the language in which they were written? Or imagine, if you will, going to apply for housing and trying to explain your needs to a manager, but being unable to communicate your needs and qualifications if the two of you cannot understand one another's languages. How far would that application process get before one of the two parties gave up in frustration? The concept of Limited English Proficiency (LEP, for short) developed out of a theory of discrimination known as "disparate impact". Disparate impact is described in detail elsewhere in this newsletter, but in essence it refers to a facially-neutral set of rules or policies (i.e., the rules or policies don't on their face express a refusal to rent or deal with a member of a protected class), but which in practice have the discriminatory effect of denying housing or services to protected groups significantly more often than people outside of those groups.

For example, consider the case of a housing manager, who speaks only English language, running a subsidized housing complex in a predominately Hispanic neighborhood. All of the advertisements for this complex over the years have been in English, all of his rental documents were in English. And, almost all of his current tenants are non-Hispanic. There are a few Hispanics living in the complex, but all of those have fluency in English. Even if this manager never intended to deny housing to Hispanics, a case might well be made that the historic failure to meet the Spanish-language needs of an eligible Hispanic population in the neighborhood was having the "disparate impact" of effectively denying housing to Hispanics.

So now you're asking, What does the Government expect me to do? Enroll in community college and take a course in Spanish? In Cantonese? In Vietnamese? Translate all of my lease documents once I've passed these courses? Have all this done before the next annual set of recertifications is complete? The short answer is "no". But guidance is coming which will help housing providers to analyze whether they need to do more to reach out to LEP populations, "Limited English Proficiency - HUD Proposed Guidelines And What They Mean to Housing Providers."

Keeping the "disparate impact" concept in mind, the requirement to reach out to the special needs of LEP populations is founded in Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the bases of race, color, and national origin in federally-subsidized housing and programs. Executive Order 13166, signed in August 2000, ordered all federal agencies working under Title VI to publish guidance for its respective recipients clarifying their LEP obligations. HUD published proposed guidance in the Federal Register on Friday, December 19, 2003. Public commentary on the proposed guidance extended for 30 days, and the Department is currently considering the public's comments. Final guidance should be published in the coming year, and HUD will get word to all owners and managers soon after.

Without imposing any firm rules, the guidelines offer four general areas of consideration which subsidized housing providers are encouraged to consider in determining what actions need to be taken to deal with the LEP populations in their complex, and in their community:

(a) The number or proportion of LEP persons served or encountered in the eligible population: If there is a

sizeable LEP population living in the complex, there is a greater need to meet their needs through translation services. If there is a sizeable LEP population living in the community, there is probably a greater need to outreach and market to them in a language they will understand.

(b) The frequency with which LEP individuals come into contact with the housing or service provider: The more frequent the contact with a particular language group, the more likely that enhanced language services in those languages are needed. Daily contact with a LEP population almost certainly suggests need for in-house translation services. Less of a burden exists in the cases of infrequent, unpredictable interactions.

(c) The nature and importance of the program, activity or service provided: The obligations to communicate translated rights to a person who is being evicted differ, for example, from those to provide recreational programming instructions.

(d) The resources available to the housing or service provider, and the costs: There is a greater obligation that a public housing authority offer translation services, than there is for a ten-unit HUD Section 811 development. A large provider has greater resources to hire bi-lingual staff, and greater resources to arrange translation of critical documents. But even housing providers of smallscale housing can effectively meet critical needs through services such as Language Line translations, and at minimal costs, where a LEP clientele suggests need.

There's significantly more than the summary above in HUD's proposed LEP Guidelines. Although the public commentary period has now closed, you may still access the proposed Guidelines on HUD's website, or download them from websites providing access to the Federal Register. As noted above, they were published in the Federal Register on Friday December 19, 2003 (pages 70968-70980). Or contact FHEO at 1-800-347-3739, and a copy will be mailed to you.

#### Quick Quiz

Limited English Proficiency – HUD Proposed Guidelines And What They Mean to Housing Providers

1. According to the 2000 census, what percentage of Californians spoke English "less than well"?

2. What does LEP stand for?

 When does HUD expect to publish final guidelines clarifying LEP requirements?

4. Has the public commentary on proposed LEP guidelines been extended to the end of 2005?

5. On what date did HUD publish the proposed LEP guidelines?

6. Which office within HUD should be contacted to obtain a copy of the proposed LEP guidelines?

#### PASS Training

PASS offers a 3-day non-certification course for our MF and PH customers interested in learning about the physical inspection process.

There are a few spaces available in the following classes: May 24-26; June 7-9; and June 21-23.

The course is from 9:00 - 5:00 each day at the HUD Headquarters in D.C.

For more information or to register, please include preferred dates, email: Lara Philbert Washington D.C. Lara\_Philbert@HUD.GOV (202) 475-8930

#### FYI – Management Fee Range

The Detroit Multifamily HUB has reviewed the management fee range yield in accordance with HUD Handbook 4381.5 revision 2 paragraph 3.19. Effective November 1, 2004 the approved fee range yield is \$9.00 to \$39.00. Information to determine the yield was gathered from unassisted HUD-insured properties which are in good physical condition and have no special problems, and which are owned by profit-motivated entities and are managed by independent agents.

The add on fees approved in November 2002 for the situations below remain unchanged. The fees are provided on a per unit per month basis.

Small properties (20 units or less) Fee not to exceed \$5 Multiple subsidies for the same property Fee not to exceed \$1 Adverse neighborhood conditions Fee not to exceed \$3 Cooperatives Fee not to exceed \$3 Cooperatives Fee not to exceed \$2 Remote Location Fee not to exceed \$1 Obtaining/monitoring grants from private foundations Fee not to exceed \$1 Neighborhood Network Center Fee not to exceed \$1

If you have any questions regarding management fees, please contact your HUD Project Manager.

Successful Loan Sale	Reserve for Replacement Reminder
The Department held a successful sale of mortgages in its March 16, 2005, Multifamily and Healthcare Loan Sale 2005-1. Closings are scheduled to take place by March 31. Here are some statistics: Number of Loans Offered: 49 - UPB of \$397,078,527 33 - Multifamily Projects 12 - Assisted Living 1 - Nursing Homes 3 - Assisted Living/Nursing Home Number Sold: 49 Total Gross Proceeds: \$\$255, 090,521 Overall Sales Price: 64.2% Total Bidders: 20	This is a reminder to owners/agents who have recently refinanced their properties with HUD's 223f and 232/223f loans. Owners are not to use the Reserve for Replacement funds for improvements or repairs that they knew about at the time of loan origination, at least during the first year after the new loan.
Total Successful Bidders: 7	HOUSE RULES
The Department sells both multifamily and single family mortgages to the private sector to liquidate its inventory of HUD-held mortgage loans and to generate budget savings. In addition, reducing the HUD-held mortgage inventory reduces the burden on staff. As the burden is lifted, multifamily asset management staff can better focus on their primary function of overseeing the physical, financial, and operating condition of the privately-held multifamily projects with FHA-insured mortgages and on meeting HUD's core mission of providing affordable housing. Our goal is to hold two sales each year. The next sale of unsubsidized loans is being planned for August 2005. Visit HUD's Multifamily and Healthcare Loan Sale website at: www.hud.gov/offices/hsg/comp/asset/mfam/mhls.cfm for further information and past sale results.	HUD does not expect tenants to leave their apartments for longer than 60 continuous days or 180 continuous days for medical reasons. Extended absences rest solely with the owner, but should be part of the House Rules. Owners may allow exceptions for extenuating circumstances. See page 6-17 of the HUD Handbook 4350.3. This is a reminder that in order to terminate tenancy in response to extended absence or abandonment of the unit by the tenant listed on the lease, house rules must be established and attached to the lease.

Partner Section		
IREM The Institute of Real Estate Management (IREM®) has been the source for education, resources, information and membership for real estate management professionals for more than 70 years. An affiliate of the NATIONAL ASSOCIATION OF REALTORS®, IREM is the only professional real estate management association serving both the multi-family and commercial real estate sectors. With 82 U.S. chapters, eight international chapters and several other partnerships around the globe, IREM is an international organization that serves as an advocate on issues affecting the real estate management industry.	Quadel is a leading national expert in the public housing, housing choice voucher, HUD-subsidized multifamily, and tax credit programs. Quadel blends private-sector productivity, quality, and management principles with public and non-profit social welfare goals. We have a reputation for real-world practicality, hardworking thoroughness, and thoughtfully tailored solutions.         Upcoming training         Assisted Housing Manager         7/12-7/14 Grand Rapids Michigan         Website: www.quadel.com	
Website: www.irem.org CANDI ATKINS & ASSOCIATES 332 Pine Street, Suite #202 San Francisco, CA 94104 415-399-1235 caaconsulting@aol.com Upcoming training Management & Occupancy Reviews 7/19-7/20 Grand Rapids, Michigan Website: www.candiatkinsconsulting.com NCHM "NCHM is a nonprofit 501(c)(3) organization providing management improvement services including compliance and performance education, technical support, and consulting to professionals in the affordable housing industry and military housing." Upcoming training Certified Occupancy Specialist 9/28-9/30 Detroit Michigan Certified Occupancy Specialist 10/12-10/14 Lansing Michigan Website: www.nchm.org MAHSA The Michigan Association of Homes and Services for the Aging, MAHSA (and it's national affiliate, AAHSA) represent non-profit HUD senior housing providers - offering management updates, technical assistance, HUD and senior housing management training programs, networking, discounted pricing on group purchasing contracts, and more. Contact: David Herbel, Senior Vice President of Government Strategy at (517) 323-3687 or by electronic mail at dherbel@mahsahome.org. Website: www.MAHSAHOME.org	<text><text><text><text><text></text></text></text></text></text>	

Top 10 Deficiencies Found During RHIP Reviews	
Missing HUD 9887, Notice and Consent for the Release of Information, and HUD-9887A, Applicant's/Tenant's Consent of the Release of Information. The consent expires 15 months after signed.	Tenant security deposits not in compliance with HUD guidelines. Handbook 4350.3, Chapter 6, figure 6-6, Amount of Security Deposit to Collect from Tenant, page 6-29.
Missing HUD-27061 H, Race and Ethnic Data Reporting Form, for applicants, residents to self-certify their ethnicity. In compliance with Notice H 04-25 and Handbook 4350.3, paragraph 2-11, subparagraph B.1, Recordkeeping, page 2-9.	Missing Residents Rights and Responsibilities certification. Owners must provide applicants and tenants with the HUD Fact Sheet and a copy of the Resident Rights and Responsibilities brochure and provide some form of certification. Handbook 4350.3, paragraph 5-15, subparagraph C.
Checking account verifications are not properly verified. Use average monthly balance in checking accounts for last 6 months. See Handbook 4350.3, Appendix 3, Acceptable Forms of Verification.	Move-in, annual and move-out inspections are not signed by resident or by management or annotated that resident was not available. Handbook 4350.3, paragraph 6-29, pages 6-39 through 6-41, and paragraph 6-30 on page 6-41.
Wrong formula used when calculating income for full-time employee. Handbook 4350.3 requires owners/agents to use 2080 x hourly salary to calculate full-time employment with a 40-hour work week and no overtime. See Handbook 4350.3, Paragraph 5-5, subparagraph b.1, page 5-4.	Income and assets verification missing from resident files. Owners must verify all income, expenses, assets, family characteristics, and circumstances that affect family eligibility. Handbook 4350.3, paragraph 3-25, Key Requirements, subparagraph A,page 3-64.
Current HUD Model Lease not in file. Current form of lease to be used is available in Handbook 4350.3, Appendix 4.	Tenant selection policy missing required elements. See Handbook 4350.3, Figure 4-2, page 4-4 and paragraph 4-7, pages 4-14 and 4-15.

Section 202 Refinancing Notice Revised	Quick Quiz Answers Limited English Proficiency – HUD Proposed Guidelines (From FHEO Quick Quiz on page 9 )
On November 12, 2004, HUD issued Notice H 04-21 which revised Notice H 2002-16, Underwriting Guidelines for Refinancing of Section 202 and 202/8 Direct Loan Prepayments. The new notice has the following provisions.	<ol> <li>20% of Californians speak English less than well.</li> <li>Limited English Proficiency.</li> </ol>
• Loans can now be underwritten at the current or to be adjusted Section 8 rents, even if the Section 8 rents are greater than market. However, HUD does not permit above market rents for refinancings using a state agency risk sharing	3. HUD expects to publish final guidelines later this year.
program.	4. No. Comments have not been extended.
• HUD will not allow mortgagors to take equity from the Section 202 property. In the case of a purchase transaction, sellers will be permitted to an equity take out that is the lesser of the	5. Friday, December 19, 2003 published in the Federal Register
purchase price or the unassisted market value of the property.	6. FHEO at 1-800-347-3739
◆ The maximum allowable developer's fee is increased from 9 percent to the lesser of 15 percent of the development costs as defined under a State's Low Income Housing Tax Credit (LIHTC) Program or the maximum fee allowed by the State LIHTC Program. If LIHTC is not used as a source of equity, the limitation on the maximum developer's fee is also 15 percent of acceptable development costs.	Use Agreement Monitoring
	HUD Headquarters has contracted with Owusu and Co. to conduct Use Agreement/Deed Restriction compliance reviews beginning in Baltimore. The contractor will do approximately 500 reviews this year throughout the United
• The maximum annual distribution from surplus cash is 6 percent of the owner's equity that was	States.
paid at the refinancing of the project. Other Government funds (i.e., HOME funds, CDBG funds, etc.) will not be considered owner's equity. See www.hudclips.org for other provisions of Notice H 04-21.	After a letter has been sent to the owner from Headquarters, the contractor will be contacting owners directly to schedule these reviews.

Matching Tenant Data in Assisted Housing Programs	How to Calculate the ne Prescription Drug Cards and Transition
In the Federal Register of November 29, 2004, HUD provided notice of a matching program involving comparisons of information provided by applicants or participants in any HUD rental housing assistance program authorized under various statutes and independent sources of income information available through the National Directory of New Hires (NDNH) maintained by HHS. The rental housing assistance programs included are those covered by: The United States Housing Act of 1937; Section 202 of the Housing Act of 1959; Section 221(d)(3), 221(d)(5), or 236 of the National Housing Act; Section 811 of the Cranston-Gonzales National Affordable Housing Act; and Section 101 of the Housing and Urban Development Act of 1965. The matching program will be carried out only to the extent necessary to (1) Verify the employment and income of individuals participating in the above identified programs to correctly determine the amount of their rent and assistance, and (2) after removal of personal identifiers, to conduct analyses of the employment and income reporting of individuals participating in HUD's rental housing assistance programs. Based on an evaluation of the costs and benefits of disclosures made to PHAs and the adequacy of measures used to safeguard the security and confidentiality of information disclosed, HUD may expand the use of this computer matching program to disclose employment and income information of tenants to private housing owners, management agents, and contract administrators that administer HUD rental assistance programs. This matching information will be used to reduce or eliminate improper assistance payments.	Notice H 2004-24 provided gui determining annual and adjuste HUD's assisted housing progra Medicare Prescription Drug, Improvement and Modernization In calculating annual income for assistance or benefit received ff Medicare prescription discount transitional assistance must be a annual income for the purpose calculating any rent or assistant The Medicare prescription drug (the card) and transitional assis by a family must be treated as a medical deduction when determining the family's medic deduction. Families using the c to receive a medical deduction of the prescription drugs. Owner must verify the cost of the drugs without the discou verifying the out-of-pocket cost the tenant. If Medicare does not pay the er which can be as high as \$30, te the enrollment fee as a medical Please obtain a full copy of Not at www.hudclips.org to read the and required actions.

## ew Medicare nal Assistance

idance in ed income in ams under the ion Act of 2003.

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nrollment fee, enants may claim al deduction.

otice H 2004-24 ne entire notice

Reminder Regarding PRAC Renewals!	APPS (2530 processing)
Many PRAC's are nearing the end of their initial contract terms. In order to renew these contracts, Notice H 2002-17 requires that owners submit an operating budget for the property. If the owner is also requesting an increase in the project's rents, they should also submit the information required by Handbook 4350.1, Chapter 7, budget-based rent increase. Owners are encouraged to submit their renewal information at least 120 days prior to contract expiration, since obtaining additional PRAC funds, if required, is a timely process. A copy of Notice H 2002-17 can be obtained at www.hudclips.org	<ul> <li>HUD has been telling the industry APPS is coming, now it is here! The Active Partners Performance System (APPS) allows HUD's business partners to submit their Previous Participation Certification (form 2530) request to HUD for processing via the Internet.</li> <li>APPS will: <ul> <li>Replace the current 2530 paper process</li> <li>Provide a more efficient approval process</li> <li>Secure and protect all data sent in by industry through an ID and password</li> <li>Reduce paper work</li> </ul> </li> <li>Participants have until October 13 to complete data entry on their previous participation activities. The data needed is nearly identical to that from Form 2530 Schedule A. After October 13th, HUD will only process or approve participation in Multifamily transactions for those who have provided their 2530's through APPS.</li> </ul>
Just a reminder	portal and if you have a secure connection your coordinator can setup rights for you to enter data into APPS. The user guide covers all
When you refinance a property with HUD and obtain a new loan number, please remember to send in correspondence and reports with the new FHA number to cut down on processing time.	entry processes; in addition each screen has independent help available. We have full training materials online for all participants. From the APPS home page click on "work on line" then click on "Housing Industry" and then click on APPS The URL for APPS is www.hud.gov/offices/hsg/mfh/apps/appsmfhm.cfm

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### Housing and Urban Development

HUD's mission is to increase homeownership, support community development and increase access to affordable housing free from discrimination. To fulfill this mission, HUD will embrace high standards of ethics, management and accountability and forge new partnerships—particularly with faith-based and community organizations—that leverage resources and improve HUD's ability to be effective on the community level.

U.S. Department of Housing and Urban Development Office of Multifamily Housing 477 Michigan Avenue Detroit, MI 48226-2592

Detroit: (313) 226-4900 Grand Rapids: (616) 456-2100