

# PHILADELPHIA MULTIFAMILY HOUSING HUB NEWS



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## Happy 4th of July!



### Modification to Model Lease

As a result of the case, *Kuzuri Kijiji, Inc. v. Sheree Bryan*, Superior Court, Essex County, June 27, 2003) the Philadelphia Hub issued Notice PHI 04-01, dated April 28, 2004. The Notice authorized a revision of the HUD Model Lease for Subsidized Programs to insure that landlords can evict tenants for covenant defaults of their leases.



In the proceeding, the court found that, under current New Jersey law, an owner of a subsidized housing project could not evict a tenant for a covenant default unless the lease contained a right of reentry clause—a provision not found in HUD’s Model Lease for Subsidized Programs. This ruling was based on New Jersey State Law- Violation of Lease Covenants [N.J.S.A. 2A:18-61.1e: (1)], that cites the following language as grounds for summary dispossession:

“The person has continued, after written notice to cease, to substantially violate or breach any of the covenants or agreements contained in the lease for the premises where a right of reentry is reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement is reasonable and was contained in the lease at the beginning of the lease term.”

Lease into compliance with New Jersey State Law, authorization was provided to amend Paragraph 23 of the HUD Form Lease (HB 4350.3 REV-1, Occupancy Requirements of Subsidized Multifamily Housing Programs, Appendix 4-A) by adding the following sentence to the beginning of the paragraph: “The Landlord reserves a right of reentry into the premises if the tenant breaches any term, condition, covenant or agreement contained in this lease.”

It was the determination of the Philadelphia Hub that reserving a right of reentry to the landlord does not infringe on the tenant’s well being, nor does it conflict with HUD occupancy requirements. It simply removes the impediment in a justified case of eviction proceeding for breach of the lease. The change to the HUD Model Lease must follow the modification procedures set forth in Paragraph 6-12 of HB 4350.3 REV-1. This lease modification approval is applicable to all subsidized projects in New Jersey that use any type of the HUD Model Lease without a reentry clause. The required language should be inserted in the following fashion: Appendix 4-B Model Lease (Direct Loans)- Paragraph 9; Appendix 4-C Model Lease (Section 202 Capital Advance Loans)- Paragraph 8; and Appendix 4-D Model Lease (Section 811 Capital Advance Loans)- Paragraph 8.

As a final point, it is the responsibility of the owner/landlord and its counsel to insure the lease that they use for a HUD subsidized project complies with State and local laws, whether it is on a HUD Model Lease form or any other form. Any changes to the HUD Model Lease, necessary to comply with State and local laws, must follow the HUD modification procedures.

In order to bring the HUD Model

### **Conformance with Accessibility Guidelines**

As discussed in last month's issue of Philadelphia Multifamily Hub News, the "Fair Housing Accessibility Guidelines" were developed by HUD in 1991 to assist builders, architects, local government officials, and others in the building community to adequately meet the Fair Housing Act requirement that "covered multifamily dwellings" be designed and constructed to include certain features of accessible design. The Guidelines were developed to serve as a single, reliable source for information on compliance, and have quickly become the most commonly known and utilized guidelines in the industry.



A new report by HUD's Office of Policy Development & Research (PD&R) presents a statistical picture of multifamily conformance with the Guidelines from a broad national view. "Multifamily Building Conformance with the Fair Housing Accessibility Guidelines" also provides baseline estimates of compliance to support assessment of future technical assistance and enforcement efforts.

The survey, consisting of 291 questions about technical items relating to accessibility, was conducted at 397 multifamily housing projects. It includes a review of site and building plans, on-site inspections of buildings, and tabulations of individual building evaluations to obtain detailed data on the degrees of conformance and nonconformance. The analysis of survey data also included follow-up discussions with 20 architects and builders who offered their perspectives on the reasons behind the types and extent of conformance and nonconformance.

Overall, architectural plans showed slightly higher levels of conformance than did projects in the field. The lowest conformance scores, however, were for reinforced walls for grab bars. Other areas, also scoring lower were light switches, electrical outlets, thermostats, environmental controls, and usable kitchens.

The complete report is available on the web at:

<http://www.huduser.org/publications/fairhsg/multifamily.html>.

### **Hub Staff Train Investigators**

The Philadelphia Hub Office participated in the Office of Inspector General for Investigation's week-long training of Special Agents who are either new to the Department or who have only been employed for 5-7 years. Two training sessions were provided by Senior Project Managers, Anna Cariello and Diane Lima, on April 19 and April 20. Approximately 25 staff from New England, Mid-Atlantic and New York OIG Districts were trained at the Philadelphia Regional Office on a variety of topics, including Multifamily Asset Management and Tenant Subsidy Administration. The training, which incorporated Power Point and "hands-on" computer systems presentations, covered the following topics: Multifamily Housing's mission, organization of the Philadelphia Multifamily Hub, how Multifamily Housing interacts with OIG Investigation, RHIIP Initiative (see May 2004 issue of Philadelphia Multifamily Hub News), 4350.3 REV-1, Changes to the Occupancy Handbook, interactive look at REMS and TRACS, and a Q & A session.



### **NAHMA Best Practices**

Each year, the National Affordable Housing Management Association (NAHMA) presents "Community of Quality Awards" to projects that have "consistently demonstrated new, thoughtful and insightful ways of accomplishing the difficult work of creating highly functioning communities for residents of modest means."

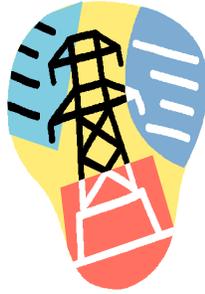


Of particular note was that two projects within the Philadelphia Hub were previous award winners: 2003- Acacia-Lumberton Manor, Lumberton, NJ (PDR Management, Inc.) and 2002- Park Plaza Apts., Little Egg Harbor, NJ (Interstate Realty Management).

In an effort to share the strategies that were employed by its award-winning projects, NAHMA has published a 24-page booklet, "Affordable Multifamily Housing Management Case Studies- 2000-2003. You can obtain it free by completing an order form at the following website: [www.nahma.org](http://www.nahma.org).

### **Energy Efficient Air Conditioners**

Central and room air conditioners have become much more efficient in recent years. This translates into lower electricity costs during the summer months.



The current federal minimum SEER (Seasonal Energy Efficiency Ratio) for an air conditioner manufactured since 1992 is 10 SEER. This minimum is being increased to at least 12 SEER by the end of 2006.

Studies have shown that in a typical detached single-family property, a savings of \$155/yr. in electricity costs could be realized by replacing a 10-year old central air conditioning system with a 14 SEER unit. In addition to the utility savings, a homeowner would qualify for a \$500 rebate from his utility company for the upgrade. Combined, this would be a savings of \$1,275 over the next five years. In addition, many manufacturers are also offering their own rebates on new models. This savings would be magnified if the unit that was being replaced had a SEER of only 6. In this case, the savings would be \$434/yr. In 5 years, the system would almost pay for itself with a total savings of \$2,670.

In comparing the energy efficiency of room air conditioners, look for the bright yellow Department of Energy Guide and ENERGY STAR™ labels. Each Energy Guide label gives you an estimated yearly operating cost of that unit at various utility rates and hours of use. Similarly, the ENERGY STAR™ symbol identifies products that save energy and money and protect the environment.

### **Regulatory Reform and Affordable Housing**

In the April issue of Breakthroughs, the Regulatory Barriers Clearinghouse looks at state efforts to craft regulatory reform that supports and promotes affordable housing. As part of the NOFA process, HUD will be awarding extra credit to applicants from state agencies and from others seeking funding for projects located in unincorporated areas or areas otherwise not covered by local land use or building authority where regulatory reforms have been successfully deployed. Specifically, in this issue the following is discussed:



state regulatory reform programs in general, with links to a number of state reform publications and programs; how Maine's legislature established a subcommittee to review local regulatory barriers and make recommendations; and how Pennsylvania's Department of Community and Economic Development created a publication to assist local governments with removing regulatory barriers.

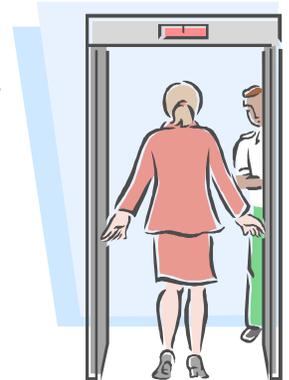
This issue of Breakthroughs is available at <http://www.huduser.org/rbc/newsletter/vol3Iss2.html>. To find the Federal Register Notice on the new incentive criteria for both local jurisdictions and state agencies or other applicants, please go to the RBC home page at <http://www.regbarriers.org> and click on the "HUD's NOFA Regulatory Barriers Selection Criteria" in the upper right hand corner of the Web page.

### **Elevator Safety**

Owners and management agents of high-rise apartments have a responsibility to protect elevator passengers in the event of a power outage.

The following measures are recommended to insure the safety and security of entrapped passengers:

1. All elevators should be equipped with an ADA-compliant elevator telephone.
2. All elevators should be equipped with emergency lighting.
3. Emergency back-up elevator-lowering devices should be installed that automatically activate if there is a loss of power.
4. Interface your buildings emergency power supply, if one is available, with the elevator control system of traction-type elevators.
5. Schedule meetings with building staff and other building occupants on safety "do's and don'ts" (e.g., passengers should not try to forcibly exit an elevator car; only experienced elevator personnel should be used to rescue entrapped passengers; etc.).

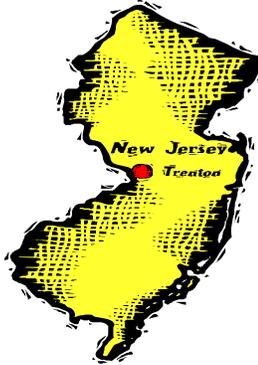


## Closings

The following closings occurred in the Hub during the month of June: *Insured*– Newark: Lambert Homes and Fulton Gardens; Charleston: Oak Mound and G.W. Petroplus; *Section 202/811*- Philadelphia: St. George Senior Housing and DIMA X; Newark: Cheshire Homes and Cinnaminson Consumer Home; and Pittsburgh: NCR Harborcreek.

## New Jersey Anti-Sprawl Effort

The transfer of development rights, a key part of Governor James E. McGreevey's "Smart-Growth" Initiative, (as reported in the March 2003 and January 2004 issues of Philadelphia Multifamily Hub News), has been signed into law. The new "Transfer of Development Rights" legislation allows municipalities to control sprawl in over-crowded NJ by steering development towards areas that already have the infrastructure necessary to support it.



Essentially, builders will purchase development rights, then trade those rights to the municipality in exchange for more favorable development rights at a location targeted for growth by the municipality. In the end, the municipality gets to preserve open space and better direct future development. Developers also benefit by earning the right to do things such as build more densely than zoning laws would otherwise allow at a location that already has streets, sewers, & traffic lights.

## \$10 Million Loan for Newark



Newark, NJ will receive a \$10 million loan from a new state revolving loan program for development and improvement projects. A new organization called Winning in Newark's Neighborhoods (WINN), a subsidiary of the New Jersey Redevelopment Authority, will be formed to administer the funds. Councilman Hector Corchado stated that the money should be used to help small businesses because they can help jump-start and sustain communities."

## Weehawken Waterfront Boom

The Weehawken, NJ waterfront is seeing a boom in housing construction. Roseland Properties, Inc. recently opened 42 luxury four-story brownstones, selling from \$900,000 to \$2 million each. The homes feature internal elevators, hardwood and marble floors, full service kitchens, winding staircases, and up to 4,600 sq. ft. of living space. The second phase of Roseland's Port Imperial South project will feature 1,643 units. Nearly 150 of them will be designated as affordable housing and another 270 will be designated as assisted living for senior citizens. Also included in the project is a 450,000 sq. ft. office structure. The entire project, which will take 10 years to complete, will include a hotel, a shopping center, and an assisted living center.



Mayor Richard Turner stated that the initial phase of construction is "the first new ratable on the waterfront in over a decade since the addition to the Sheraton Suites hotel...the increase of real estate value can only enhance the entire township...The value of waterfront property increases every year. While this is a very expensive neighborhood with the brownstones, there will eventually be condos and rental units, assisted and affordable housing, so the entire development will mirror upper Weehawkin."

## Section 8 Fraud

In April, Federal prosecutors filed charges of multiple counts of making false statements, in U.S. District Court, against eight residents of the Kimberton Apts., a 100 unit Section 236/8 project located in Wilmington, DE. The individuals were accused of providing false income statements to qualify for Section 8 rental assistance payments. The charge carries a maximum penalty of one year in prison and a \$100,000 fine.



## HUD Employee Awarded CPM



Congratulations to Diane Lima, Senior Project Manager, Philadelphia Program Center, who earned the IREM designation of Certified Property Manager (CPM).