

## Rent Adjustment Procedure

### ELDERLY RENT ADJUSTMENT PROCEDURE

The Regulatory Agreement or the Loan Agreement requires owners of elderly program projects to obtain the prior written approval of the Department before implementing any increase in rents. The Compliance Officer (CO) should review the document for the specific project to determine the exact wording of the requirement.

Generally, any loans funded out of proceeds from bonds issued prior to the tax code change in 1986 will have the provision regarding rental rates located in the Regulatory Agreement which typically states:

- "(a) The Borrower agrees to establish rental rates for all dwelling units in the Development as are from time to time directed by the Division in writing or which are approved by the Division in writing upon application by the Borrower.
- (b) The Borrower shall submit a proposed schedule of rental rates and a proposed operating budget on forms approved by the Division for the Development to the Division at least once per year and not less than sixty (60) days prior to the beginning of each fiscal year of the Borrower"....."The proposed schedule of rental rates shall be sufficient to meet Operating Expenses (as hereinafter defined) set forth in the proposed operating budget. Upon approval by the Division, the proposed schedule of rental rates and proposed operating budget shall be effective for the next ensuing fiscal year of the borrower. The Division shall review the proposed schedule of rental rates and budget for approval in a timely manner and shall not unreasonably withhold its approval.
- (c) The Borrower understands and agrees that this Regulatory Agreement constitutes and assurance by the Borrower that the Development shall be operated by the Borrower so as to maintain"....."It is further mutually understood that it is the intention of the Division to approve rental increases on condition that the Development will continue to serve the people for which it was intended, and that the rents remain competitive with rents in similar Developments in the area."

Generally, any loans funded out of proceeds from bonds issued after the tax code change in 1986 will have the provision regarding rental rates located in the Loan Agreement which typically states:

"Borrower shall submit to the Agency a proposed schedule of rental rates for the Project on forms approved by the Agency not less that sixty (60) days prior to the date of a proposed rent increase. A new rental rate schedule must be submitted prior to any change in rental rates. Upon approval by the Agency, the proposed schedule of rental rates shall be effective after all required notifications."

Owners must submit requests for a rent adjustment at least 60 days prior to the proposed implementation date, but preferably 90 days. The request must include the following:

1. Current rental rates
2. Proposed rental rates by unit, not just as a percentage of the current rates.
3. Annual budget if not already submitted for the fiscal year the rent is proposed to be implemented.
4. Current rent roster listing residents by unit number. A copy of the completed Resident Eligibility Certification must be on file with the Department for each resident listed on the rent roster. Any missing certifications will be noted by the CO, to be obtained prior to processing the request further.

The owner/agent will be notified within 5 working days of those items required that are missing. Notification can be made over the phone but must be followed up in writing.

Upon receipt of a complete package the CO will process the request as follows:

1. Income eligibility requirements will be checked for compliance with applicable statutes and IRS tax code regulations.
  - a. The low-/very low-income requirement must be met. Check the Regulatory Agreement for the project to determine the requirement for each particular project:
    - (1) 20% of units reserved for low-income residents (80% of median)
    - (2) 20% of units reserved for very low-income residents (50% of median)
    - (3) 40% of units reserved for very low-income residents (60% of median)
  - b. All residents' income must be below the median income limit currently established by the Department unless a waiver was granted by the Department in accordance with the administrative rules and our procedure to waive the income limits.

If requirements are met, a letter is sent to the owner/agent approving the rent increase.

If requirements are not met, a letter is to be sent to the owner/agent denying approval of the rent increase stating the reasons for the denial and what needs to be done before we will reconsider the request for an increase.

If rents are increased without Department approval or after the Department has denied approval, a letter of non-compliance should be sent to the owner with a copy to the agent, noting such non-compliance and indicating that remedies may be taken to obtain compliance in accordance with the applicable loan document. A copy of this letter shall be placed in the project's loan document file.

Copies of all correspondence are to be placed in the project's working file under "rent adjustments".

Copies of any denials shall be given to the Manager of Housing Programs Management.