

CHALLENGED ELEMENTS

Lorain Metropolitan Housing Authority's 2019 Annual Plan and Capital Fund Program 5-Year Action Plan Public Comments received during advertising period

LMHA received comments on its 2019 Annual Plan during the advertising period. LMHA's responses follow each comment.

PUBLIC HOUSING ACOP

PUBLIC COMMENT

Studying the tenant requirements for public housing, I saw all the outdoor security and criminal provisions, but I didn't see any policies for quiet time from 10pm-6am. I wouldn't want to hear loud music, screaming kids, and arguing tenants after 10pm. I like the non-smoking policy since I don't smoke, and if I smell marijuana, I get sick.

LMHA RESPONSE

LMHA cannot set specific quiet hours. However, we do enforce the peaceful enjoyment of the premises clause in the lease regarding loud noise and loud music on a case-by-case basis as reported.

PUBLIC COMMENT

On page 5-3 of the ACOP, it shows that the maximum number of persons permitted to live in an efficiency (0-bedroom) apartment is 1. Local occupancy codes show that 2 persons should be permitted to inhabit a unit of 370 square feet. (See list "Local Occupancy Codes in Northeast Ohio 2013" from the Housing Research and Advocacy Center.) It is recommended that LMHA increase the occupancy limit from 1 to 2 persons for efficiency units.

LMHA RESPONSE

LMHA agrees to increase the occupancy limit to 2 persons for efficiency apartments.

HCVP ADMINISTRATIVE POLICY

PUBLIC COMMENT

In reviewing the policy for the joint custody of dependents, I found a discrepancy. Chapter 3 states dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50% or more of the time. Chapter 6 states 51% or more of the time.

LMHA RESPONSE

LMHA will change Chapter 6 to reflect 50% or more of the time.

PUBLIC COMMENT

In Chapter 4, page 4-16, there appears to be an incomplete sentence. In Order of Selection, the PHA Policy states “Families will be selected from the waiting list based on the targeted.”

LMHA RESPONSE

LMHA recognizes the error and will add the rest of the sentence to read “Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the PHA’s hierarchy of preferences, if applicable”.

PUBLIC COMMENT

There seems to be a discrepancy between wording in the Administrative Plan and the ACOP regarding what LMHA will do if families do not return required documentation within the required timeframe. Page 4-15, third paragraph. Is this because they are two different programs?

Same question in last paragraph regarding failing to attend a scheduled interview.

LMHA RESPONSE

LMHA has been working on having one set of policies for Public Housing and HCVP. There are times that these policies will be different. However, after review of the policy, LMHA will correct the Administrative Plan to reflect the policy as stated in the ACOP to read “If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice that they are being removed from the waiting list. When a family is removed from the waiting list due to failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the PHA from making an eligibility determination; therefore, no informal hearing is required.”

LMHA will correct the Administrative Plan to read “Applicants who fail to attend two scheduled interviews without PHA approval will be sent a letter advising the family they have been removed from the waiting list. Such failures to act on the part of the applicant prevent the PHA from making an eligibility determination; therefore, no informal hearing is required.”

PUBLIC COMMENT

In Chapter 8, Section 8-III.B., the PHA Policy states in the third paragraph, “All rent adjustments will be effective the first of the month following 60 days after the PHA’s receipt of the owner’s request or on the date specified by the owner, whichever is later.” What if the home is under abatement for HQS deficiencies?

LMHA RESPONSE

LMHA will add language to the PHA Policy to prohibit a rent increase when the home is under abatement. We will add to the last sentence in the third paragraph “A unit that is in abatement is not eligible for an increase in contract rent.”

LMHA’S 2019 ANNUAL PLAN DOCUMENT

PUBLIC COMMENT

Page 40 of 54 regarding Project Based Vouchers, LMHA has only listed the cities of Lorain and Elyria. Will project-based vouchers be used in different areas of Lorain County?

LMHA RESPONSE

LMHA has proposed to utilize project-based vouchers to convert two existing public housing developments that are located in Lorain and Elyria. LMHA will add language to the Administrative Plan that includes deconcentration efforts and general locations other than Lorain and Elyria.

PUBLIC COMMENT

LMHA received emailed comments from the Legal Aid Society of Cleveland shortly after the Public Hearing ended. The comments relate to eligibility and denial of applicants for both the Public Housing and HCV Programs.

Legal Aid Society Comment

Legal Aid welcomes the opportunity to offer these comments on LMHA's proposed changes to the Public Housing Admissions and Continued Occupancy Plan ("ACOP") and the Housing Choice Voucher Program (Admin Plan).

Section 3III-C: Other Permitted Reasons for Denial of Admission: Criminal Activity (24 CFR 960.203(c)] (ACOP p 3-21, Admin Plan p 3-29)

In the framework of the Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions issued on April 4, 2016 (hereinafter known as "The HUD Guidance"), Legal Aid proposes that LMHA exclude consideration of arrests and evictions, eliminate the background period for all misdemeanors and limit the look back period for felonies to one (1) year.

First, relative to considering arrests in screening applicants, the HUD Guidance states: "The housing provider with a policy or practice of excluding individuals because of one or more prior arrests (without any conviction) cannot satisfy its burden of showing that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest." See p 5.

LMHA RESPONSE

LMHA believes that reducing the lookback period for felonies to 1 year and eliminating the lookback period entirely for misdemeanors is too substantial a modification to current and proposed language to implement without first allowing the Resident Advisory Board (RAB) the opportunity to study, review, and comment and for a 45-day public comment period.

LMHA does not exclude individuals solely because of arrests without convictions, but considers the totality of all facts and circumstances. LMHA strives to make this clear throughout the policies. As stated in the ACOP Section 3-III.B. REQUIRED DENIAL OF ADMISSION (p 3-20) and in the Admin Plan Section 3-III.B. MANDATORY DENIAL OF ASSISTANCE (p 3-27): "A record of arrest(s) will not be used as the basis for the proposed denial or proof that the applicant engaged in disqualifying criminal activity."

Additionally, in Section 3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE (ACOP p 3-21, Admin Plan p 3-29): "A conviction for such activity will be given more weight than an arrest or an eviction. An arrest of an applicant for a disqualifying offense shall not, in and of itself, be a conclusive determination that the applicant engaged in disqualifying criminal activity but may be considered as a factor in the consideration of the totality of the facts and circumstances of any given incident."

And, in 3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION (ACOP p 3-30, Admin Plan p 3-34): "While a record of arrest(s) will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest."

Legal Aid Society Comment

Second, Legal Aid urges LMHA to eliminate consideration of evictions, not only because of disparate impact on African Americans, but also the barrier that such consideration may pose for people with disabilities.

LMHA RESPONSE

LMHA only considers evictions from federally assisted housing programs as stated in the Admin Plan p 3-29 3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE: “Any family member has been evicted from federally-assisted housing in the last three years (considering relevant mitigating circumstances).”

The ACOP will be amended in Section 3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION, p 3-23 to read: “Has a pattern of eviction from housing or termination from federally assisted housing ~~residential~~ programs within the past three years (considering relevant mitigating circumstances).”

LMHA also complies with HUD requirements for applicants to sign the form HUD 52675 DEBTS OWED TO PUBLIC HOUSING AGENCIES AND TERMINATIONS. The 52675 advises applicants:

The following adverse information is collected once your participation in the housing program has ended, whether you voluntarily or involuntarily move out of an assisted unit:

1. Amount of any balance you owe the PHA or Section 8 landlord (up to \$500,000) and explanation for balance owed (i.e. unpaid rent, retroactive rent (due to unreported income and/ or change in family composition) or other charges such as damages, utility charges, etc.); and
2. Whether or not you have entered into a repayment agreement for the amount that you owe the PHA; and
3. Whether or not you have defaulted on a repayment agreement; and
4. Whether or not the PHA has obtained a judgment against you; and
5. Whether or not you have filed for bankruptcy; and
6. The negative reason(s) for your end of participation or any negative status (i.e., abandoned unit, fraud, lease violations, criminal activity, etc.) as of the end of participation date.

How will this information be used?

PHAs will have access to this information during the time of application for rental assistance and reexamination of family income and composition for existing participants. PHAs will be able to access this information to determine a family’s suitability for initial or continued rental assistance, and avoid providing limited Federal housing assistance to families who have previously been unable to comply with HUD program requirements. If the reported information is accurate, a PHA may terminate your current rental assistance and deny your future request for HUD rental assistance, subject to PHA policy.

LMHA accesses HUD’s Enterprise Income Verification (EIV) system to research this information for each applicant. When determining eligibility of an applicant, the information

obtained from this system is considered.

Legal Aid Society Comment

Third, Legal Aid urges LMHA to eliminate consideration of misdemeanor sentences as not meeting the HUD Guidance's substantial test and serious concerns of the disparate impact not only for African Americans, but also impoverished individuals and people with disabilities. Few defendants are advised of collateral sanctions when counseled to agree to a misdemeanor conviction in lieu of trial. The ACOP should support a public interest in reducing recidivism. Research shows that to avoid future criminal convictions, individuals need stable, affordable housing. Further, it is in the public interest that people with criminal convictions maintain employment. In fact, many misdemeanor sentences require that a person maintain employment. However, without affordable stable housing, sustained employment becomes a near impossibility and increases the likelihood of recidivism.

LMHA RESPONSE

As stated previously, LMHA believes that this is too substantial a modification to implement without first allowing the Resident Advisory Board (RAB) the opportunity to study, review, and comment and for a 45-day public comment period.

Legal Aid Society Comment

Finally, to be consistent with the HUD Guidance, the ACOP should also include an explicit provision that applicants denied based on criminal background are entitled to an individualized assessment.

Section 3-III.G. Notice of Eligibility or Denial (ACOP p 3-33) and

Section 3-III.F Notice of Eligibility or Denial (Admin Plan p 3-36)

Legal Aid urges LMHA to include in its written notification to an applicant who has been denied based on criminal background that the applicant is entitled to an individual assessment.

LMHA RESPONSE

LMHA uses the term “case-by-case basis” rather than “individualized assessment.” LMHA describes the case-by-case policy in Section 3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE (ACOP pp 3-22 and 3-23, Admin Plan pp 3-28 and 3-30): “In making its decision to deny assistance, the PHA will consider the factors discussed in Sections 3-III.E [and 3-III.F in the ACOP]. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.”

LMHA offers informal reviews for applicants that have received a proposed denial of admission. As stated previously, an arrest shall not, in and of itself, be a conclusive determination that the applicant has engaged in disqualifying criminal activity. The LMHA will consider all facts

before making a decision. The informal review process allows applicants to dispute the allegations and submit documentation to prove otherwise. The informal review process is the individualized assessment.

During the review of policies while responding to comments from Legal Aid, a correction was deemed necessary in the ACOP p 3-21. We will change “denied admission” to “proposed for denial of admission.” “If any household member is currently engaged in, has engaged in any of the following criminal activities, has been released from detention/incarceration, or has been released from probation/parole within the past three years, the family will be ~~denied~~ proposed for denial of admission.”

LMHA’s CAPITAL FUND PROGRAM 5-YEAR ACTION PLAN

PUBLIC COMMENT

It was mentioned that LMHA would like to add some projects to the 2019 Capital Fund Program and 5 Year Action Plan for the Central Office Cost Center, provided that those were eligible to be added. Did you find out about the eligibility?

LMHA RESPONSE

Yes, LMHA learned that we can utilize Capital Funds for COCC capital improvements, so we added them to the Plan. They are:

Resurface/seal/stripe parking lots 1600/1604		250,000
1600/1604 Exterior improvements: Tuckpoint/seal and/or paint brick		30,000
Upgrade interior/exterior lighting		30,000
Replace 1600 Kansas HVAC Rooftop units/ductwork improvements		50,000
1600 Kansas Roof improvements		200,000
1600 Kansas Replace Ceiling Tile		50,000

PUBLIC COMMENT

For JF Oberlin Homes, the description of the work on the exterior of the building includes brick repairs, caulking, tuck pointing, window replacement, and roof improvements. Perhaps that should be broken out into 3 projects rather than combining them all in one.

LMHA RESPONSE

LMHA agrees and has divided the exterior work into 3 separate projects.