

# LORAIN METROPOLITAN HOUSING AUTHORITY

## APPLICANT SCREENING PROCESS

Revised July 2017

After verification of all pertinent data required determining eligibility, applicants shall be notified of their eligibility/ineligibility. The basis for ineligibility determination may include, but is not limited to:

- (1) Over-income. The applicant's family income exceeds the HUD published income limits for Lorain County.
- (2) Misrepresentation. The applicant has committed fraud in connection with any federally assisted housing program, or has provided false information about their criminal history.
- (3) Financial Obligation. The applicant has failed to meet financial obligations, especially rent; and/or currently owes rent or other amounts to LMHA in connection with a previous tenancy or Section 8 participation. The applicant is unable to secure utility service (gas and/or electric). Solely at LMHA's discretion, an individual may be placed on the waiting list and lease a unit owing money to LMHA if LMHA determines the applicant merits another change in LMHA housing. An applicant owing money to LMHA must provide documentation to the Housing Authority which the PHA shall use to determine if the applicant merits housing prior to payment in full of the balance owing LMHA. The applicant shall be required to sign a repayment agreement indicating the payment schedule for the balance due LMHA. Failure to comply with the agreement shall result in removal from the waiting list or termination of the lease if the applicant has been housed.
- (4) A history of disturbing neighbors.
- (5) Incidents of property destruction.
- (6) Living or housekeeping habits which could adversely affect the health, safety or welfare of other tenants.
- (7) A history or pattern of criminal activity involving crimes to persons or property and/or other criminal acts that affect the health, safety, or right to peaceful enjoyment of the premises by other tenants.
- (8) Current or recent release from incarceration/parole/probation; or a community control program or any other court supervised intervention program which requires reporting to the court or agency.
- (9) An eviction from federally assisted housing or termination from the Housing Choice Voucher Program within three (3) years because of drug-related criminal activity of any household member. However, the household may be admitted if LMHA determines that the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by LMHA, or the circumstances leading to eviction no longer exist.
- (10) LMHA determines an applicant is illegally using a controlled substance.
- (11) LMHA has reasonable cause to believe an applicant illegally uses a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

- (12) The inability to abide by a lease, or being unable to legally enter into a lease.
- (13) Registration as a sexual offender. Persons subject to a lifetime sex offender registration under a State sex offender registration program are permanently prohibited from admission to housing.
- (14) Was previously evicted and/or moved out of LMHA public housing owing community service hours to LMHA as individual in housing or as individual as household member owing community service hours. To become eligible, the applicant must provide proof that all community service hours owed to LMHA upon move out have been fulfilled.
- (15) Persons convicted of the manufacture or production of methamphetamine in assisted housing are permanently prohibited from admission to housing.
- (16) Persons who are barred from LMHA property or properties.
- (17) Family member is determined to be fleeing confinement for a felony.

LMHA retains the right, when extenuating circumstances exist, as determined solely by LMHA, to permit the admission of a family when one of the above ineligibility exists.

LMHA will not deny admission to public housing to any person because that person has been a victim of domestic violence, dating violence, stalking, or sexual assault provided that such person is otherwise qualified for such admissions.

LMHA will prohibit admission of a household to the housing program if LMHA determines that any household member is currently engaged in, or has engaged in, prohibited criminal activity during a reasonable time, referred to as a look-back period.

LMHA will complete a criminal history background check on all adult applicants. Criminal background checks must be performed in the state in which the housing is located and for states where the applicant and members of the applicant's household may have resided. As such, applicants for admission into the applicable HUD-assisted housing programs must provide a complete list of all states in which any household member has resided. Failure to accurately respond to any question during the application process is cause to deny the family admission.<sup>3</sup>

LMHA shall examine the records to determine if any household members have been involved in crimes of physical violence to persons or property or other criminal acts, drug-related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff, or could cause damage to the unit or development. If the records demonstrate that an applicant has engaged in prohibited criminal activity during the look-back period, then LMHA shall propose denying the applicant housing.

The look-back period for felonies and misdemeanors which may reasonably impact community safety, such as domestic violence or concealed weapons offenses, is THREE (3) years. The look-back period for misdemeanors which may not reasonably impact community safety is ONE (1) year. The look-back periods apply from the date of conviction, release from detention/incarceration, or completion of probation/parole, whichever is more recent, to the date of screening. Applicants with pending cases or outstanding arrest warrants may be proposed for denial of housing depending upon the nature or seriousness of the case. LMHA will afford the

applicant the opportunity to participate in a hearing to discuss the case. LMHA may determine to defer a decision pending adjudication of the case.

LMHA must ensure that adverse housing decisions based upon criminal activity are supported by sufficient evidence that the individual engaged in such activity. Specifically, before LMHA denies admission to, terminates the assistance of, or evicts an individual or household on the basis of criminal activity by a household member or guest, LMHA must determine that the relevant individual engaged in such activity.<sup>1</sup>

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. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, LMHA may obtain the police report(s) associated with the arrest and consider the reported circumstances of the arrest. LMHA may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.<sup>2</sup>

LMHA shall consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that eviction of the entire household would have on family members not involved in the criminal activity; and the extent to which the applicant/leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity. Additionally, when specifically considering whether to deny admission or terminate assistance or tenancy for illegal drug use by a household member who is no longer engaged in such activity, LMHA may consider whether the household member is participating in or has successfully completed a drug rehabilitation program, or has otherwise been rehabilitated successfully.<sup>1</sup>

LMHA may not base a determination that an applicant or household engaged in criminal activity warranting denial of admission, termination of assistance, or eviction on a record of arrest(s).<sup>1</sup>

LMHA may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and LMHA has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions.<sup>1</sup>

Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred. Official record of a person's conviction in a court of law is the best evidence of the person's involvement in disqualifying criminal activity.<sup>2</sup>

Only in limited and specific cases of criminal activity do HUD statutes and regulations require denial of admission or termination of assistance (and in only two cases—where someone has

been convicted of producing methamphetamine in federally-assisted housing or must register as a lifetime sex offender—is someone permanently barred). In all other cases, LMHA has discretion to consider any mitigating circumstances in making admission and eviction decisions.<sup>2</sup>

Federal law requires that LMHA must provide public housing, project-based Section 8, and HCVP applicants with notification and the opportunity to dispute the accuracy and relevance of a criminal record before admission or assistance is denied on the basis of such record. Public housing, HCVP, and project-based Section 8 applicants also must be afforded the right to request an informal hearing or review after an application for housing assistance is denied.<sup>1</sup>

When LMHA makes the decision to propose rejection of an applicant on the basis of a criminal record, LMHA must provide the applicant with a written notice stating the reason for the proposed rejection, provide the household member whose criminal history is in question a copy of the criminal record, advise of the applicant's right to respond to LMHA in writing or to request a meeting within fourteen (14) business days to dispute the proposed rejection, and advise that persons with disabilities have the right to request reasonable accommodations to participate in the informal hearing process.<sup>2</sup> If the applicant fails to request a hearing within fourteen (14) business days, then the file will be inactivated.

LMHA must offer the family the opportunity to remove the ineligible family member from the household in order to be admitted if that household member has participated in or been culpable for criminal actions that warrant rejection.<sup>3</sup>

During the admissions process, the LMHA may learn that a household member has an open warrant or a case is pending a hearing. While it may be advisable to wait until the arrest disposition, especially if the disposition is imminent, LMHA has the discretion to use the available evidence to make an eligibility determination according to the standards in this policy.<sup>2</sup>

Mitigating circumstances may cause an otherwise rejected application to be accepted under certain circumstances. Mitigating circumstances are facts relating to the applicant's negative behavior, that, when verified, indicate that the reasons for the unsuitable behavior no longer exist or are under control, and that the applicant's prospect for lease compliance is an acceptable one, justifying admission. Mitigating circumstances would overcome or outweigh information already gathered in the screening process.

In all instances where unfavorable information would cause an applicant family to fail to meet the screening criteria set forth above, best efforts will be made to obtain mitigating information from all available sources. Sources of information may include, but are not limited to, the applicant (by means of interview), social workers, parole officers, employers, educators, public officials, court records, drug treatment centers, clinics, physicians or police departments where warranted by particular circumstances and as allowable by law.

If, during the meeting with the Hearing Officer, the applicant asserts that there are mitigating circumstances which LMHA should consider before rendering a final decision, then the applicant shall be afforded ten (10) business days to provide such evidence.

LMHA shall consider the time, nature and extent of the applicant's conduct (including any reasonable explanation therefore) and the factors that might indicate a reasonable probability of favorable future conduct.

Mitigating factors to be considered include but are not limited to the following:

- Evidence of successful treatment, i.e., completion of rehabilitation or verification of current rehabilitation to mitigate history of one or more family members with drug or alcohol abuse;
- Evidence of applicant's family's participation in social service or appropriate counseling service;
- Evidence of successful and sustained modification of previously disqualifying behavior;
- Offending individual no longer part of the household;
- Letter of support from a judge or court administration suggesting that the offending individual will not be placing the health and or safety of other residents at risk.

A decision by the hearing officer in favor of LMHA, i.e., supporting that the applicant be denied housing, shall not constitute a waiver of, nor effect in any way, the rights of the applicant to a trial or judicial review in any judicial proceedings which may thereafter be brought in the matter.

Within five (5) business days of the hearing, LMHA must advise the applicant in writing of the final decision on eligibility.

An applicant's status may be changed when additional information is discovered or received prior to the applicant leasing the unit which may be cause to determine the applicant ineligible. Once all additional relevant information is received, the applicant will be returned to the waiting list or removed from the waiting list due to ineligibility.

<sup>1</sup>Source: Notice PIH 2015-19

<sup>2</sup>Source: FAQs for Notice PIH 2015-19 / H 2015-10

<sup>3</sup>Source: Notice PIH 2012-28 / H 2012-11