

Welcome!

Housing Best Practices Forum





Housing Best Practices Forum: What to do when an application for subsidized housing is denied

- Audio can be done over your computer OR conference call line
- Conference call number:
 - 844-302-0362
 - Meeting ID: 594 244 721
- Conference call lines will be muted. You can ask questions through the WebEx chat feature.
- Follow up evaluation

Format of Forums

- Every other month (evens), third Monday, 1:30-3:30
- Taped presentation and materials available post-session on mn.HB101.org (partners tab)
- Steering Committee to oversee agenda and topics

Agenda

- When an Application for Subsidized Housing is Denied— Riann Meyer and Colleen Walbran, Mid-Minnesota Legal Aid
 - Questions
- Practical application—Betty Battle, Minneapolis Public Housing Authority
 - Questions
- Policy and Program updates
- Closing




When an Application for Subsidized Housing is Denied: A Focus on Project-Based Section 8 Housing


Riann Meyer and Colleen Walbran
Mid-Minnesota Legal Aid
December 18, 2017



HUD Handbook 4350.3

- Owners are required to have written tenant selection policies
- Policies must detail eligibility requirements
- Policies must be public

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- Selection criteria must be reasonably related to an applicant's ability to meet the obligations of the lease
 - Selection policies must explain the circumstances under which an application will be rejected
 - Plans typically describe when the owner will consider extenuating circumstances

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- Tenant selection policies must explain the protections afforded by the **Violence Against Women Act**
 - Survivors and their families may not be denied housing because of domestic violence, sexual assault, or stalking



Mandatory Standards

- Eviction from federally-subsidized housing for drug-related criminal activity within the last 3 years
- Policies may allow for exceptions:
 - Successful completion of a drug rehabilitation program
 - Other changes in circumstances, like a change in household composition



Mandatory Standards

- Current use of illegal drugs
- Reasonable cause to believe current drug use will interfere with the health, safety, and right to peaceful enjoyment of the property



Mandatory Standards

- State sex offender lifetime registration



Mandatory Standards

- Behavior related to abuse of alcohol that may interfere with the health, safety, and right to peaceful enjoyment of the property



Optional Standards

- Drug-related criminal activity (not related to an eviction from subsidized housing)
- Violent criminal activity
- Other criminal activity that poses a threat to the health, safety, and right to peaceful enjoyment of the property or the health and safety of management employees
- Owners may establish a reasonable “look back” period



Additional Considerations Related to Optional Screening for Past Conduct

- Exclusion of the culpable household member
- Drug or alcohol rehabilitation
- Other evidence of rehabilitation



Other Relevant Circumstances

- Seriousness of the offense
- Effect on the community
- Degree of participation in the past conduct
- Impact on other household members



Proactive Measures

- Obtaining a free copy of a tenant screening report
- Challenging any errors in the tenant screening report
- Seeking enforcement of the Fair Credit Reporting Act



Screening for Credit History

- Poor credit history is sufficient to deny the rental application
- Lack of credit history is *not* sufficient to deny the rental application
- The analysis should focus on reasonably recent credit history related to rent and utilities



Proactive Measures: Credit Issues

- Credit counseling
- Repayment plans with creditors
- Representative payees
- Rent vendoring
- Co-signer
- Negotiations over the deposit



Proactive Measures: Negative Reference

- Lease violations or domestic violence?
- Police calls
- Noise
- Damage to property
- Unauthorized occupant of the rental unit
- Ending the lease early
- VAWA certification



Proactive Measures: Rental History

- Eviction expungement
- By motion or agreement
- Statutory basis
- Or by the inherent authority of the court
- In Forma Pauperis (fee waiver)



Proactive Measures: Criminal History

- Arrest record sealing (even though an arrest record cannot be the basis of a denial)
- Criminal court record expungement
- In Forma Pauperis (fee waiver)



Proactive Measures

- Reasonable accommodation of disability under fair housing law
- Documentation of the link to the disability
- Plan for future lease compliance



If the Application is Denied

- Written notice is required
- The notice must specify the basis for the denial
- 14 days to respond or request a meeting in writing
- Right to request a reasonable accommodation of disability
- Right to have the meeting with a different employee decision-maker
- Right to a written final decision within 5 days of the owner response or meeting



Before the Meeting

- Evidence that refutes the allegations
- Evidence that provides missing information
- Evidence of change of circumstances or rehabilitation
- Discussion of interview skills



At the Meeting

- Emphasis on how the applicant will contribute to the community
- Interpersonal conflict-avoidance
- Participation of third parties who provide support to the applicant



If the Decision to Deny is Upheld

- Request for reconsideration based on additional favorable evidence
- Request for review by the corporate office
- Fair housing complaint, if applicable



Disparate Impact under Fair Housing Law

- When a policy or practice has an unjustified discriminatory effect, even if there was no intent to discriminate, and
- the policy is not necessary to achieve a substantial, legitimate, nondiscriminatory interest, or
- there is a less discriminatory alternative



Disparate Impact under Fair Housing Law


- Reliance on arrest records to deny applications (in light of racial disparities)
- Blanket bans based on any conviction records
- Failure to consider the nature or severity of the conviction
- Failure to consider the time that has passed since the conviction
- Failure to conduct an individualized analysis of the applicant's qualifications

*A similar analysis could be applied to overly-broad rental history and credit screening policies



Differential Treatment under Fair Housing Law

- Discouragement of applicants based on race or other protected class
- Making exceptions for some applicants but showing no flexibility for protected class members



Tenants who are concerned about possible
unfair tenant screening policies or practices
can call to do an intake:

Mid-Minnesota Legal Aid

612-334-5970

Southern Minnesota Regional Legal Services

1-888-575-2954

*See lawhelpmn.org for a complete, statewide
directory of local legal services offices*

Betty Battle
Minneapolis Public Housing Authority

Update: Minnesota Housing

Opportunity to create housing units for people with disabilities:

- Minnesota Housing offers incentive points for housing developers to create units for people with disabilities in the Multifamily RFP for capital funding.
- Developers must work with county or tribal human service staff to determine the target population(s), referral process and service delivery and submit a narrative service agreement with their application.
- If you are a service provider, consider being proactive and reaching out to developers in your community if there is a specific need for housing units for people with disabilities in your community.
- Contact: Vicki Farden, Minnesota Housing, vicki.farden@state.mn.us

Update: Plan to Prevent and End Homelessness

- “Heading Home,” Minnesota’s Plan to Prevent and End Homelessness is being updated for 2018-2020
- Public comment period in January
- More opportunities for stakeholders to participate
- Contact: Ali Niemi, alison.niemi@state.mn.us

Thank you!

Comments or questions? DHS Housing Options email:
dhs.housingoptions@state.mn.us

Presentation and materials available: <http://mn.hb101.org/>

Complete evaluation

Future sessions