



City of Cambridge

19.

November 21, 1988

IN CITY COUNCIL

COUNCILLOR GRAHAM

- ORDERED: That this City Council go on record as strongly opposing the new rules and regulations in regards to public housing tenants; and be it further
- ORDERED: That the City Clerk be and hereby is requested to forward a suitably engrossed copy of this resolution to the Speaker of the House, Vice President of the Senate, all U.S. Congressional Members and U.S. Senatorial Members.

*Be/v
copy to c/c's*

Pisani Center TENANTS COUNCIL
131 Washington Street
Cambridge, MA 02139
577-1750



Homeless!

Do You Know How Close You Are?
Putnam Gardens..

Newtowne Court... Hud's (Your landlord) Jefferson Park...
Roosevelt Tws - Washington Elms
New Regulations as of Nov. 7th 1988. For All
Federal Elderly & Family Developments.

1. Can raise your rent without notice - pay or leave, basis.
2. Utilities (electric) turned off for nonpayment is grounds for eviction.
3. You no longer have the right to a grievance hearing (you can't fight the eviction.)
4. If head of household dies the rest of the family is evicted.

You have no Rights According to HUD.

Do You Care?

If you do, come to the Pisani Center Tues Nov 22nd
at 7:00pm to take some action against Hud through
letters & petitions to Washington D.C.

Mr. DAN WUNSCHel, DIRECTOR of C.H.A. and Mr. JOHN KEANE, Manager
of C.H.A. MANAGEMENT ARE ASSISTING US IN OUR EFFORTS TO
RE-ESTABLISH TENANTS RIGHTS WITH REGARDS TO THIS LAW.

SUMMARY OF LEASE AND GRIEVANCE REGS
PUBLISHED AUGUST 30, 1988
53 Fed. Reg. 33216
(Prepared by Charlie Harak, MLRI)

On August 30, 1988, the Department of Housing and Urban Development (HUD) published new lease and grievance procedure regulations. These final regulations amend regulations appearing primarily at 24 C.F.R. [Code of Federal Regulations] Part 966. (Some changes are also made to parts 904, 905, 913 and 960.) This summary covers the changes in the regulations themselves; it does not cover the extensive comments issued along with the regulations. Anyone involved in litigation or administrative advocacy that involves the grievance regulations is encouraged to review the comments. The table of contents for the comments is attached to this summary.

Applicability (966.1): The grievance regulations, 24 C.F.R. Part 966, covers all federal public housing, except Indian housing (no units in Massachusetts) and Turnkey III Homeownership housing.

Definitions (966.2): The terms "due process determination" and "elements of due process" are defined. These terms, discussed below, relate to a process by which a housing authority can obtain approval to begin eviction proceedings without offering grievance hearings.

Note that the definition of "tenant" includes only "the person or persons who sign the lease" and that "household" includes only the people who "live in the dwelling unit with written approval of the PHA."

Required lease provisions (966.10): The new regulations provide a more detailed explanation of the lease provisions that cover rent and utilities. They specifically allow for month-to-month leases (966.10(b)(2)). They more clearly require notice to the tenant of rent changes, and the right to an explanation of any such changes.

The discussion of the utilities provisions of the lease specifically states that where "tenant's failure to pay the utility bill" leads to a shut-off, this "shall be considered a serious violation of the lease" and thus could form the basis for eviction. (966.10(d)(4)(ii)). The comments simply note that a utility shut-off may result in damage to property and that the tenant must pay utility bills for which they are responsible.

The regs still require a statement and explanation of any excess charges that may be imposed on top of rent (e.g., for tenant-caused damage), but delete any limitation on the amount of security deposit, other than that imposed by local law. (966.10(e)).

The LHA's obligations when a dwelling unit is uninhabitable have been reworded, and the obligation to abate rent if a replacement unit is not provided has been deleted (compare new 966.10(f) with old 966.4(h)).

The new regs specifically allow a housing authority to allow a tenant to "engage in legal profitmaking activities [that are] incidental to the primary use of the dwelling unit for residence by the household, 966.10(g). In the same paragraph, the wording of the right to have visitors and guests has been reworded slightly.

The tenant must now use the dwelling as his or her "only place of residence", potentially limiting the ability of elders to spend the winter elsewhere, 966.10(h)(1)(i). The obligations to provide income documentation and to move to an appropriate-sized unit have been reworded, 966.10(h)(1)(iii), (iv).

The tenant's obligations to refrain from engaging in any illegal or offensive activities have been tightened up, and the provisions holding the tenant vicariously liable for guests and visitors have been strengthened. Further, certain illegal activities, whether committed on or off the premises, are now grounds for eviction. 966.10(h)(2), (i).

The entry and inspection provision has been amended so that 24 hours' (previously, 48 hours') advance notice is presumed reasonable. 966.10(k).

The previous provisions (966.4(i)) requiring pre-occupancy and post-termination inspections have been deleted.

Termination of tenancy (966.20 to 966.23): The phrase "serious violation of the lease" is now more carefully defined, and specifically includes failure to provide any required documentation; failure to pay utility bills; and any failure to pay rent or other charges (966.21(b)). The notice requirements for termination have been more fully spelled out. Further, the regs more clearly require an LHA to evict only after going through a civil court process (966.23).

Grievances (966.30 to 966.35): Tenants must be allowed a grievance hearing on adverse housing authority actions. An adverse action includes terminating the tenancy; requiring a tenant to move; imposition of or changes in rent, utility or other charges; or "a proposed decision to take other specific, concrete, affirmative individualized action contrary to the interests of a tenant." 966.31(a)(2). Challenges to general policies or class grievances are specifically excluded from the grievance procedure. An authority must give notice of any proposed adverse action; tell the tenant of the right to a grievance hearing; and explain how and when a hearing request must be filed. 966.31(b).

A tenant must pay the undisputed portion of any rent (or other charges) owed in order to preserve his or her grievance rights. 966.31(d).

No eviction may take place while a grievance is pending, unless the housing authority has received HUD approval for

excluding certain eviction proceedings from the grievance procedure (discussed below). 966.31(e).

Hearing officers must be someone other than the person who made or approved to adverse decision (or his subordinate). the tenant is entitled to be represented, at his own expense; may examine all relevant LHA records; may present evidence and cross-examine witnesses. 966.32.

The hearing officer must issue a written decision, but the housing authority need not follow it if issued in excess of the officer's authority or if in violation of federal or state law.

Excluding evictions from the grievance procedure (966.40, .41): This new subpart allows a housing authority to obtain a HUD "due process determination" that state or local laws governing eviction procedures contain the "elements of due process". If HUD makes such a determination, then the housing authority does not need to offer grievance hearings in evictions but may instead simply issue a notice to quit and proceed to court. The "elements of due process" (966.2) include (1) the opportunity for a hearing on the housing authority's alleged cause for the eviction; (2) advance notice of the hearing, with the reasons or cause stated; (3) hearing before an impartial party; (4) the right to be represented by counsel; (5) the opportunity to present evidence and examine witnesses); and (6) a decision on the reasons for the eviction.

It would be very difficult to argue that G.L. c. 239 and the summary process rules do not provide the elements of due process (except for the limited discovery rights provided). The Boston Housing Authority has already sought a "due process determination" from HUD that both c. 239 AND c. 139, sec. 19 provide the "elements of due process". For those interested in this issue, please contact Charlie Harak at MLRI, 742-9250, for a copy of the comments filed with HUD on the BHA request. Should the BHA receive HUD approval, any other housing authority in the state could immediately obtain approval under the rubric of the BHA's request. These new regulations will make it easy for housing authorities to evict tenants without offering grievance hearings.

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HUD REPEALS LEASE AND GRIEVANCE REGULATIONS

On August 30, 1988, HUD repealed its regulations regarding leases and grievance procedures in public housing. 53 Fed. Reg. 32,216-312. Those repealed regulations -- which have been on the books since 1975 -- were based upon HUD policies originally developed by the Nixon Administration in 1970-71 and reviewed and reaffirmed by the Ford Administration in 1975. 24 C.F.R. § 966. Those basic principles were carefully established, after long deliberation, to promote better relations between tenants and their public housing landlords. They were intended to reverse the hostility and waste which had characterized the 1950s and 1960s when some, but not all PHA officials, treated their tenants arbitrarily and left them with no recourse but litigation in court. Everyone involved in those historic deliberations agreed that the arbitrary excesses of power and the litigation which resulted were damaging both to the tenants and to the public housing authorities themselves. Thus, in 1971 HUD set out the minimum protections for tenants' interests which all PHAs had to include in their leases and required each PHA to establish an effective process for resolving disputes before they festered and exploded, either into litigation or on to the streets.

The repeal of those 1975 regulations reflects HUD's current attitude that the HUD officials from the Nixon and Ford eras were wrong, that the federal government should put no restraints upon a PHA's power and that a grievance process is a waste of time and money. In pursuit of that bias, the contemporary HUD officials, in almost open defiance of Congress, have promulgated only those few rules which they view as absolutely required by Congress' 1983 legislation which directs PHAs to utilize fair leases and to implement effective grievance procedures. 42 U.S.C. § 1437d(k) and (l). HUD's current officials ignore the lessons of the 1950s and 1960s when, without any restraints, some PHAs did abuse their power^{to m.} and created the conditions which demanded the promulgation^{of the} 1971 and 1975 regulations. The results, as HUD acknowledges, will work "a historical change in the federal requirements for the governance of public housing." (53 Fed. Reg. 33,218) and will make "pervasive changes in the relationships between the PHAs and the tenants." 53 Fed. Reg. 33,220. In its zeal to deregulate the public housing landlord-tenant relations, HUD has deliberately sought to evade Congress' 1983 legislation which, as HUD acknowledges, "severely limits the scope of the regulatory reforms originally proposed by HUD in 1982." 53 Fed. 33,218.

Narrowly Defining Grievable Disputes

One of the more egregious ^{conspicuous - BAD} deficiencies in the new regulations, and the one which reflects the greatest defiance of Congress' will, is the narrow manner in which the regulations define the types of disputes which are grievable. The regulations specify only three items which can be grieved:

- (1) disputes about rents or other charges;
- (2) disputes about transfers ordered by the PHA; and
- (3) evictions.

24 C.F.R. § 966.31, 53 Fed. Reg. 33,308; Introductory Comments, 53 Fed. Reg. 33,216-66. The Introductory Comments specifically state that tenants will not have an opportunity to be heard, for example:

(1) when they ask for a transfer for medical or other reasons, but the PHA refuses;

(2) when they request repairs or heat in the winter, but the PHA refuses to provide it (the fact situation in Samuels); or

(3) when they ask for a rent abatement because of hazardous defects in their units, but the PHA refuses to grant the request. 53 Fed. Reg. 33,264-65.

Defiance of the Courts and Congress

That unduly ^{Define} circumscribed definition of grievable disputes is taken in open defiance of the interpretation of the 1983 legislation by the Court of Appeal for the District of Columbia Circuit in Samuels v. District of Columbia, 770 F.2d 184 (D. C. Cir. 1985). That Court, recognizing the absurdity of limiting grievances to situations where the PHA has initiated the conduct leading to a dispute, specifically held that disputes regarding a PHA's refusal to act, as well as its affirmative actions, must be grievable. Not only did HUD expressly repudiate the Court's decision (53 Fed. Reg. 33,262), it also explicitly rejected Congress' views on the matter. In the Conference Report on the 1987 Legislation, Congress expressed its approval of the Samuels decision and its disapproval of HUD's proposed regulations which would have narrowly limited the grievable disputes. H.R. REP. NO. 426, 100th Cong., 1st Sess. 167 (Nov. 6, 1987). As HUD stated in the Introductory Comments, "HUD is only bound by the law enacted by Congress." An expression of views in the Conference Report is not enough. 53 Fed. Reg. 33,263.

Turning Legitimate Grievances into Non-Grievable Evictions

Although HUD begrudgingly concedes that at least three types of disputes must be grievable, in practice there will be no grievances because of other changes HUD has made. Pursuant to statutory authorization (42 U.S.C. § 1437d(1)), HUD will allow housing authorities to exclude evictions from the grievance process. Evictions thus will never be grieved. Disputes regarding transfers and rents and other charges will also never be grieved because of the way HUD has handled their relationship to evictions. Under HUD's regulations, housing authorities will be allowed to include in any notices ordering a tenant to transfer or requiring a tenant to pay rent or other charges a statement that if they do not comply, their tenancy will be terminated and they will be evicted. 53 Fed. Reg. 33,276 and 33,259. A tenant who seeks to dispute the PHA's demands will be entitled to request a grievance hearing on the transfer or the rent disputes. However, the PHA will also be allowed to proceed simultaneously with the eviction in the state court and, when it does, the tenant will not be allowed to secure a delay of the eviction action until the pending grievance is resolved. 53 Fed. Reg. 33,301-302. Even if the grievance is resolved in the tenant's favor, the PHA will not be bound (53 Fed. Reg. 33,302) and, to add insult to injury, if the tenant loses, the tenant can be bound by the result in the state court. 53 Fed. Reg. 33,286. By creating a heads you lose, tails I win situation, HUD has created a scheme in which only a crazy tenant would ask for a grievance hearing.

Grievance Decisions Bind the Tenant, But Not the PHA

Even if the PHA does not make the pre-emptive strike of filing an eviction, HUD has created so many ways a PHA can avoid being bound by an unfavorable decision that proceeding to a hearing will be a futile act. If the subject is one which the PHA did not have to submit to a grievance, the PHA will be free afterwards to declare itself not bound by an unfavorable decision. 53 Fed. Reg. 33,284. If the PHA disagrees with the hearing officer's interpretation of the federal, state or local law, again it will be free to declare ^{one side} unilaterally, that it is not bound by the result. Id. Finally, if the PHA determines, again unilaterally, ^{one side} that the hearing officer has exceeded its authority, the PHA can declare that it is not bound by the results. Id. Those decisions can be made not solely by the PHA's board of directors or the PHA's executive director, but by anyone within the PHA to whom that authority has been delegated. 53 Fed. Reg. 33,285. Those decisions not to be bound can be set aside only if the grievant can demonstrate that the housing authority has acted in bad faith or arbitrarily, a very narrow standard of judicial review. 33 Fed. Reg. 33,285. In contrast, tenants will be bound if state law says so. 53 Fed. Reg. 33,286. In effect, through this rulemaking, HUD

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has reduced to a nullity the grievance procedure required by Congress in 1983 and by HUD for 12 years prior to that.

No Tenant Participation

Under the previous regulations, tenants were allowed some input when a housing authority decided whether or not to change either a lease or the grievance procedure. Those regulations required the housing authorities to give the tenants 30 days notice of proposed changes and an opportunity to submit comments upon them. 24 C.F.R. § 966.3. That opportunity for tenant participation was again a lesson learned, not without some bitterness, that it is better to involve the tenants in changes which affect their lives than to shut them out. The recent emphasis upon tenant participation in public housing which has been advocated by people from all sides of the political spectrum and culminated in legislative reforms in the 1987 Housing Act also reflects that lesson. See Section 122, Pub. L. No. 100-242, 101 Stat. 1839 (codified at 42 U.S.C. § 1437r (West. Supp. 1988)). Despite all this history, HUD in its new regulations callously repeals any requirement that the local housing authority give the tenants notice and an opportunity to present their comments before instituting any changes in either the leases or the grievance procedure. 53 Fed. Reg. 33,250-51 and 33,287.

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No Rights for Remaining Family Members

It is not as if these new regulations will work just minor changes in the landlord-tenant relationship between the housing authority and the tenants. As one example, take the situation where a family lives in public housing and the husband and wife separate, with the husband moving out. In the past, the remaining members of the family, the mother and children, would automatically have a right to stay in their home and continue to be tenants of the housing authority. Under HUD's new regulations, however, that right is eliminated. 53 Fed. Reg. 33,247. HUD specifically authorizes the housing authority in such a situation to decide for any reason it wishes that the remaining family members may not continue to live in their home. Id. It excludes those individuals from the protections of the good cause for eviction doctrine. To make matters worse, it expressly provides that they should not be entitled to have a grievance hearing to review the housing authority's decision to deprive them of their homes. 53 Fed. Reg. 33,273. In HUD's view, that mother and those children are not "tenants" of the housing authority and thus have no rights.

Excluding Live-in Aides

HUD hands out similarly callous treatment to elderly individuals in public housing. Up until this time, it had been fairly well understood that an elderly person was entitled to have

a live-in aide stay with them in public housing when they reached the stage when they were unable to take care of themselves independently. See 24 C.F.R. § 912.2 (elderly family). The housing authority did not have to pay for the live-in aide; that was taken care of by other social services agency programs. However, the housing authority could not refuse to allow the individual to secure the benefits of such an aide. Under these new regulations, however, HUD is conferring upon the housing authority the power to review the tenant's choice to have a live-in aide and to deny the tenant that opportunity, if the housing authority decides that it wishes to. 53 Fed. Reg. 33,230. That represents another example of the manner in which HUD's zeal to deregulate the housing authority leaves the tenants at the whim and caprice of their housing managers.

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Unfair Deadlines

HUD's deregulatory zeal also wreaks havoc regarding the deadlines a PHA can impose on tenants. In the past, when the housing authority decided to increase the tenant's rent, it would have to give the tenant 30 days notice. Under the new regulations, HUD allows the housing authority to make rent increases effective immediately when the tenant is informed of them. 53 Fed. Reg. 33,252. Again, in the past, when the housing authority billed the tenant for extra charges, such as the cost of making the repairs for which the tenant was responsible, the charge would not be due until the first of the second month after the bill was sent, in order to give the tenant time to save up the money. Under the new regulations, HUD will allow the housing authority to set whatever deadline for payment of extra charges which it chooses, including the possibility of making the charges due when the tenant receives the bill. 53 Fed. Reg. 33,234. Again, tenants formerly had a right to reasonable notice before they could be ordered to transfer by a housing authority. Again, under these new regulations, HUD allows the housing authority to set any deadline -- a week, five days, two days, the next day -- for the tenants to move when the housing authority orders them to do so. 53 Fed. Reg. 33,241. The same is true with new leases. In the past, when the housing authority proposed to amend the lease, it had to give the tenant 30 days to decide whether to accept the new lease or move out. Under the new regulations, HUD allows the housing authority to impose any deadline it wishes on the tenants for them to accept the new lease. 53 Fed. Reg. 33,252-53. If the deadline is short and the tenants do not accept it, their failure to meet the deadline becomes good cause for the housing authority to evict them. Id.

Registering Guests

In the past, some housing authorities have required their tenants to register with the office any guests who come to visit them. In 1981, the Court of Appeals for the Second Circuit found

that such a guest registration requirement was unconstitutional as an unnecessary infringement of a public housing tenant's rights to privacy. McKenna v. Peekskill Housing Authority, 647 F.2d 332 (2d Cir. 1981). Despite the decision by that court, HUD in these regulations expressly allows housing authorities to require their tenants to register their guests with the office whenever they come to visit. 53 Fed. Reg. 33,229.

No Right to Return

Sometimes a public housing tenant may be required to move from their homes because it has become too hazardous to occupy, for example, when there has been a fire in a neighboring unit, which has damaged part of their home. In the past, it had been well understood that once the necessary repairs were made, the tenants would be entitled to return to their homes. In these new regulations, however, HUD takes away from the tenants their right to return and leaves it up to the housing authority to decide whether the tenants can be forced to remain in the units to which they have been transferred on a temporary basis. 53 Fed. Reg. 33,242.

Informal Conferences Eliminated

Under the old grievance procedure system, the first step in the process was to have the parties sit down in an informal conference to see whether they could resolve the matter before having to proceed to a formal grievance hearing. 24 C.F.R. § 966.54. Those informal conferences were the stage at which the vast majority of disputes got resolved. Under the new regulations, however, HUD has eliminated that initial step thus requiring all disputes to go to the formal grievance hearing. Once again HUD's zeal to deregulate has rolled over a requirement which contributed heavily to the success of the old grievance procedure.

Statutory 14-Day Notice Requirement Evaded

Under the 1983 legislation, tenants are entitled to receive 14-days notice if the housing authority is seeking to evict them for nonpayment. That two-week notice period, which originally had been established by the 1975 regulations, was designed to give the tenants some time to get the money together and to work out the problem with the housing authority. In two ways HUD has undermined this statutory purpose. First, in the proposed regulations, HUD had provided that, if the housing authority serves the notice by mail, the 14-days begins to run five days after the notice is mailed in order to allow for mailing time. That is conventional in most legal systems. In the final regulations, however, HUD decided to eliminate the five extra days for mailing and make the notice effective on the date it is postmarked. 53 Fed. Reg. 33,248. Thus, what starts out as a statutory entitlement to

fourteen days advance notice turns into something much less, maybe as few as nine days. Second, to make matters worse, HUD allows the housing authority to combine the fourteen-day notice of eviction for nonpayment of rent with the monthly bill for the rent itself. 53 Fed. Reg. 33,259. Thus, the housing authority can send out a bill on the 20th day of the month, stating a rent which the tenants should pay on the first and informing the tenant that, if she does not pay that rent, her tenancy will be terminated fourteen days from the date the bill is sent. In that situation, the statutory entitlement to fourteen day's notice has shrunk to four day's notice and the notice itself is given even before the tenant has defaulted. That is a good example of the spirit HUD has brought to this rulemaking process, *i.e.*, its unwavering intention of evading any limitations which Congress placed on its regulatory proposals in the 1983 legislation.

Repeated Minor Violations

Another, almost humorous, example of HUD's eagerness is its treatment of evictions for repeated lease violations. Under the statute, a tenant can be evicted for serious or repeated violations of the lease. 42 U.S.C. § 1437d(k). The notion is that a tenant should be evicted if the tenant does anything seriously wrong or if the tenant repeats a violation of a minor provision a second time. Under these regulations, however, HUD distorts the meaning of repeated offenses and allows the housing authority to evict for two minor violations even if they are not violations of the same lease provisions and are not in any way related to one another. 53 Fed. Reg. 33,256.

Ex Parte Decision-making

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side → One of the hallowed principles of due process is that a person should be entitled to know the charges against him in advance, to confront and cross-examine his accusers, and to have the decision based solely upon the evidence received at the hearing, not upon ex parte submissions of which he has no advance notice and no opportunity to challenge. In setting out the fundamental requirements for grievance process established by these regulations, HUD ignores this hallowed principles. Instead, HUD allows the PHAs to present its case through written hearsay statements, instead of live witnesses whom the tenant can cross-examine. 53 Fed. Reg. 33,281-82. More importantly, HUD allows this hearing officer to make factual determinations, other than ones specifically about the individual household, on the basis of his general knowledge instead of evidence which has been submitted at the hearing and which the tenant is given an opportunity to refute. 53 Fed. Reg. 33,279-80 and 33,282. What is even more disturbing, HUD allows the hearing officer to make such factual determinations without even informing the tenants during the

hearing that he intends to do so and giving the tenants an opportunity to object. 53 Fed. Reg. 33,283.

Any State Court Procedures Will Do

Under the statute, a housing authority is allowed to exclude evictions from its grievance process if it has secured a determination from HUD that the state eviction law provides the tenant an opportunity to be heard, consistent with due process, before being evicted. 42 U.S.C. § 1437d(1). In these regulations, HUD sets forth the standards it will use to determine whether state laws conform to due process. HUD specifically states that it will approve the use of state court eviction procedures in lieu of a grievance hearing even though the state court:

1. does not allow the tenant discovery prior to the hearing;
2. does not provide judges who are trained in the law;
3. does not recognize a warranty of habitability defense in the nonpayment situation; and
4. does require tenants to escrow rent in order to be heard.

53 Fed. Reg. 33,290-93. What is most egregious, HUD expressly states that it will look only at the laws upon the books and will disregard any evidence that in practice the tenants facing eviction in the state courts do not have an effective opportunity to be heard on the merits. Even Congress in 1983 was aware that in many situations, because of unduly limited resources, state courts handling evictions have become mills turning out judgments at the rate of one per minute, or less, with no real opportunity for the tenants to be heard. HUD, however, has chosen to disregard that reality, just as it has disregarded the history which produced the model lease and grievance requirements in the 1970s.

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PART 966—TENANCY AND ADMINISTRATIVE GRIEVANCE PROCEDURE

Subpart A—General

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Subpart E—Excluding Grievance on Eviction or Termination of Tenancy from Administrative Grievance Procedure

- 966.40 Purpose.
966.41 Procedure for HUD determination.

Authority: U.S. Housing Act of 1937 (42 U.S.C. 1437-1437r); section 204 of the Housing and Urban-Rural Recovery Act of 1983, P.L. 98-181, November 30, 1983; section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 966.1 Applicability.

(a) *Applicability of definitions.* The definitions in § 966.2 apply to the defined terms when used in Part 966.

(b) *Applicability of lease and termination requirements.* (1) Subpart B (lease requirements) and Subpart C (termination of tenancy and eviction) of this Part are applicable to Public Housing (definition at § 966.2).

(2) Subparts B and C are not applicable to Indian Housing (definition at § 966.2) or to the Turnkey III Homeownership Opportunity Program (see Part 904). (For provisions applicable to Rental Projects of Indian Housing Authorities, see § 905.303.)

(c) *Applicability of grievance hearing requirements.* Subpart D and Subpart E of this Part (administrative grievance procedure) are applicable to Public Housing and to Indian Housing (For special provisions for Turnkey III and Mutual Help projects, see § 966.34.)

§ 966.2 Definitions.

Due process determination. A determination by HUD that specified procedures for judicial eviction under State and local law require that a tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.

Elements of due process. The court procedures for eviction under State and local law require all of the following before eviction from the dwelling unit:

- (a) The opportunity for a hearing on the existence of serious or repeated lease violation or other good cause reasons for eviction (see § 966.21).
- (b) Advance notice of the hearing, and of the alleged reasons for eviction.
- (c) Hearing before an impartial party.
- (d) The opportunity to be represented by counsel.
- (e) The opportunity to present evidence and question witnesses.
- (f) A decision on the reasons for eviction before the occupants are evicted.

Eviction. Forcing the occupants to move out of the dwelling unit.

Fraud. Fraud means fraud as defined under any Federal or State civil or criminal statute, or any other deliberate misrepresentation to the PHA by the Tenant or other members of the Household.

Household. The Tenant and other persons who live in the dwelling unit with written approval of the PHA.

Indian Housing. The Mutual Help Homeownership Opportunity Program (which is administered by Indian Housing Authorities under 24 CFR Part 905, Subpart D) and Rental Projects of Indian Housing Authorities (under 24 CFR Part 905).

Public Housing. Housing assisted under the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) other than housing assisted under section 8 or section 17 of the U.S. Housing Act of 1937. "Public Housing" includes housing assisted under the Leased Housing programs under section 23 or section 10(c) of the U.S. Housing Act of 1937 as in effect before amendment by the Housing and Community Development Act of 1974. However, Public Housing does not include Indian Housing.

Public Housing Agency (PHA). Any State, county municipality or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families. As used in this Part, PHA includes an Indian Housing Authority (as defined at § 905.102).

Tenant. The person or persons who execute the lease with the PHA.

Tenant Rent. The amount payable monthly as rent to the PHA, as defined in, and determined in accordance with, 24 CFR Part 913.

Termination of tenancy. Termination of the legal right to occupancy of the dwelling unit. Termination of tenancy includes a termination of the lease, or a decision not to renew the lease at the end of the lease term.

Total Tenant Payment. The monthly amount defined in, and determined in accordance with 24 CFR Part 913.

§ 966.3 Civil rights requirements.

PHA policies and actions with respect to leases and administrative grievance procedures under this Part shall be consistent with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Executive Order 11063 and with related regulations and requirements.

Subpart B—Lease

§ 966.10 Required lease provisions.

(a) *Lease.* The PHA and the Tenant shall enter into a written lease of the dwelling unit. The lease shall be in accordance with the requirements of Subpart B and Subpart C. The lease shall contain the provisions described in Subpart B and Subpart C, and may contain other provisions which are determined by the PHA and which are not inconsistent with these Subparts.

(b) *Basic information.* (1) The lease shall state the name of the Tenant, the identification of the dwelling unit leased, the term of the lease, and the persons who will live in the dwelling unit.

(2) The term of the lease may be for a fixed term tenancy or for a periodic tenancy (e.g., month-to-month). In either case, the PHA shall not terminate the tenancy except in accordance with § 966.21.

(c) *Rent.* (1) The amount of the Total Tenant Payment and the Tenant Rent shall be determined by the PHA in accordance with HUD regulations and requirements, and in accordance with PHA policy (see § 966.10(n)(1)).

(2) When the PHA makes any change in the amount of the Total Tenant Payment or Tenant Rent, the PHA shall give written notice to the Tenant. The notice shall state the new amount, and the date from which the new amount is applicable (see § 966.31(c)(1) concerning deadline to ask for a change in the PHA's proposed decision on rent or PHA charges). The notice shall also state that the Tenant may ask for an

explanation of how the amount is computed by the PHA. If the Tenant asks for an explanation, the PHA shall answer the request in a reasonable time.

(3) The lease shall state the services, maintenance, equipment and appliances which are included in the Tenant Rent, and are furnished by the PHA without additional charge to the Tenant. (For treatment of utilities see § 966.10(d).)

(d) *Utilities.* (1) The lease shall state what utilities are included in the Tenant Rent, and are furnished by the PHA without additional charge to the Tenant ("PHA-furnished utilities").

(2) The lease shall state what utilities are not included in the Tenant Rent, and must be purchased by the Tenant from the utility suppliers ("Tenant-purchased utilities").

(3)(i) If there are PHA-furnished utilities, the lease shall provide that the PHA's allowance for PHA-furnished utilities shall be determined in accordance with HUD regulations and requirements (see Part 965, Subpart E).

(ii) If there are PHA-furnished utilities, the lease may provide that the Tenant shall pay surcharges for excess consumption of PHA-furnished utilities. The surcharges are only permissible if the charges are determined by an individual checkmeter which measures utility consumption of the dwelling unit, or if the charges are attributable to occupant-owned major appliances or to optional functions, such as air-conditioning, of PHA-furnished equipment.

(4)(i) If there are Tenant-purchased utilities, the lease shall provide that the PHA's allowance for Tenant-purchased utilities shall be determined in accordance with HUD regulations and requirements (see Part 965, Subpart E).

(ii) If there are Tenant-purchased utilities, and the utility supplier shuts off utilities because of Tenant's failure to pay the utility bill, occurrence of the shut-off shall be considered a serious violation of the lease by the Tenant.

(5) The PHA shall give written notice to the Tenant of any applicable allowance for PHA-furnished or Tenant-purchased utilities. The PHA may change the allowance at any time during the term of the lease, and shall give Tenant written notice of the revised allowance (see § 966.10(n)(1)).

(c) *Charges not included in Tenant Rent; security deposits.* (1)(i) The lease shall state what types of charges the Tenant is required to pay the PHA in addition to Tenant Rent. The lease shall state how the charges will be determined by the PHA (for example, by a schedule of surcharges for excess consumption of utilities, or by a schedule of repair charges). The PHA's

schedules or other procedures for determining Tenant charges shall be made available for inspection and copying by the Tenant.

(ii) The PHA shall give the Tenant written notice of the amount of any charge in addition to Tenant Rent, and of when the charge is due (see § 966.31(c)(1) concerning deadline to ask for a change in the PHA's proposed decision on rent or PHA charges).

(iii) The lease may require the Tenant to pay reasonable charges, as determined by the PHA, for damage other than normal wear or tear, caused by Household members, or by guests, visitors, or other persons under control of Household members.

(2) The lease may require the Tenant to pay reasonable fees for late payment of rent or charges determined by the PHA.

(3) The lease may provide for reasonable security deposits determined by the PHA in accordance with State and local law.

(f) *PHA obligations.* The lease shall provide that:

(1) The PHA shall provide services and maintenance for the dwelling unit, equipment and appliances, and for the common areas and facilities, which are needed to keep the housing in decent, safe and sanitary condition.

(2) The PHA shall comply with the requirements of applicable State and local building or housing codes concerning matters materially affecting the health or safety of the occupants.

(3) If the condition of the dwelling unit is hazardous to the health or safety of the occupants, and the condition is not corrected in a reasonable time, the PHA shall offer the Tenant a replacement dwelling unit if available. The PHA is not required to offer the Tenant a replacement unit if the hazardous condition was caused by fault or negligence of Household members, or of guests, visitors, or other persons under control of Household members.

(4) The PHA shall give the Tenant reasonable notice of what certification, release, information or documentation must be supplied to the PHA, and of the time by which any such item must be supplied (see § 966.10(h)(1)(iv) concerning the Tenant's obligation to supply the required item).

(g) *Tenant's right to occupy unit.* (1) The lease shall provide that the Tenant shall have the right to exclusive use of the dwelling unit for residence by the Household. The lease may provide that with written approval of the PHA, members of the Household may engage in legal profitmaking activities incidental to primary use of the dwelling unit for residence by the Household.

(2) With written approval of the PHA, use of the dwelling unit may include care of foster children and live-in care of a member of the Household.

(3) Members of the Household may receive guests or visitors in the dwelling unit. However, such use of the dwelling unit by the Household must be reasonable. The members of the Household shall comply with PHA rules on use of the dwelling unit by guests or visitors.

(h) *Obligations of the Tenant.* (1) The lease shall provide that the Tenant:

(i) Shall use the dwelling unit (A) solely for residence by the Household, and (B) as the Tenant's only place of residence (if approved by the PHA under the lease, members of the Household may engage in incidental profit-making activities in accordance with § 966.10(g)(1));

(ii) Shall not sublease or assign the lease, or provide accommodations for boarders or lodgers;

(iii) Shall comply with any State or local law which imposes obligations on a tenant in connection with the occupancy of a dwelling unit and surrounding premises;

(iv) Shall supply any certification, release, information or documentation which the PHA or HUD determines to be necessary, including submissions required by the PHA for an annual reexamination or interim reexamination of Family income and composition in accordance with HUD requirements; and

(v) Shall move from the dwelling unit in either of the following circumstances:

(A) The PHA determines the Household is residing in a unit which is larger or smaller than appropriate for the Household size and composition under the PHA unit size standards, or determines that the character of the unit is otherwise inappropriate for the Household size and composition (such as a unit modified for use or accessibility by handicapped, which is currently occupied by a Household whose members are not handicapped), or determines that the unit requires substantial repairs, is scheduled for modernization, or is not in decent, safe and sanitary condition, and the PHA offers the Tenant another Public Housing dwelling unit. The Public Housing dwelling unit shall be decent, safe and sanitary and of appropriate size under the PHA unit size standards.

(B) The dwelling unit is hazardous to the health or safety of the occupants. In accordance with Section 966.10(f)(3), the PHA must offer the Tenant a replacement dwelling unit if available.

Fee
(b) Treatment of
by the Tenant th
hold

(2) The lease shall provide that the Tenant and other members of the Household:

(i) Shall not disturb other residents, and shall prevent disturbance of other residents by guests, visitors, or other persons under control of Household members;

(ii) Shall not damage or destroy the dwelling unit or premises, and shall prevent such damage or destruction by guests, visitors, or other persons under control of Household members;

(iii) Shall not engage in criminal activity in the dwelling unit or premises, and shall prevent criminal activity in the unit or premises by guests, visitors, or other persons under control of Household members;

(iv) Shall comply with necessary and reasonable PHA rules, on conduct of Household members, or on use and treatment of the unit and premises by the Tenant and Household. The PHA shall give a copy of the rules to the Tenant (including any changes in the rules);

(v) Shall not commit any fraud in connection with any Federal housing assistance program; and

(vi) Shall not receive assistance for occupancy of any other unit assisted under any Federal housing assistance program during the term of the lease.

(3) The lease shall include a certification by the Tenant that:

(i) The Tenant and other members of the Household have not committed any fraud in connection with any Federal housing assistance program, unless any such fraud was fully disclosed to the PHA before execution of the lease, or before PHA approval for occupancy of the unit by the Household member.

(ii) All information or documentation submitted by the Tenant and other members of the Household to the PHA in connection with any Federal housing assistance program (before and during the lease term) are true and complete to the best of the Tenant's knowledge and belief.

(1) **Crime.** (1) In addition to the provisions required by § 966.10(h)(2)(iii), the lease may provide that any of the following criminal activities by any Household member, on or off the premises, shall be a violation of the lease, or other good cause for termination of tenancy:

(i) Any crime of physical violence to persons or property.

(ii) Illegal use, sale or distribution of narcotics.

(2) The PHA may terminate tenancy for criminal activity (for violation of the lease provisions required by § 966.10(h)(2)(iii), or pursuant to the optional lease provisions allowed by

this § 966.10(i)) before or after conviction of the crime.

(j) **Tenant maintenance.** The lease may provide that the Tenant shall perform seasonal maintenance or other maintenance tasks, as specified in the lease, where performance of such tasks by tenants of dwelling units of a similar design and construction is customary; provided, that such provision is included in the lease in good faith and not for the purpose of evading the obligation of the PHA. The PHA shall exempt the Tenant if the PHA determines that because of age or physical disability members of the Household are unable to perform such tasks.

(k) **Entry and inspection.** (1) The lease shall state the purposes for which the PHA may enter the dwelling unit. The purposes may include entry to inspect the unit, to make repairs or improvements, or provide other services, to show the unit, or for other purposes stated in the lease.

(2) The PHA shall give the Tenant at least 24 hours written notice that the PHA intends to enter the unit. The PHA may enter only at reasonable times.

(3) The Tenant shall allow the PHA to enter the unit in accordance with the lease.

(4) If the PHA has reasonable cause to believe that there is an emergency, the PHA may enter the unit at any time without advance notice to the Tenant, and may enter without consent of the Tenant. After such entry, the PHA shall give the Tenant a written notice of when the PHA entered the unit, and the reason for such entry.

(l) **Notice procedure.** (1) The PHA shall adopt a notice procedure which is consistent with State and local law, and which shall be incorporated into the lease. The notice procedure shall state how the PHA and Tenant may give notice to each other concerning termination of the lease, and other matters under the lease.

(2)(i) Notice of lease termination shall be in accordance with § 966.22, and notice of proposed PHA adverse action shall be in accordance with § 966.31(b).

(ii) A notice of lease termination, or a notice of proposed adverse action, shall be given to the Tenant:

(A) By mailing the notice by first class mail addressed to the Tenant at the dwelling unit, or

(B) By handing a copy of the notice to the Tenant or to any adult answering the door at the dwelling unit, or

(C) By other means which the PHA determines to be reasonably likely to give the Tenant actual notice. Posting on the outside of the unit door, and which is not supported by other notice to the

Tenant, does not constitute sufficient notice.

(iii) If a notice of lease termination or a notice of proposed adverse action is sent by mail, the notice is deemed given when mailed.

(3) If the PHA believes that the notice procedure otherwise used by the PHA may not give adequate notice to handicapped Tenants, the PHA notice procedure may incorporate additional procedures for giving notice to such Tenants.

(m) **Termination of tenancy and eviction.** The lease shall state the requirements for termination of tenancy and eviction under Subpart C of this Part.

(n) **Changes during lease term.** (1) From time to time during the course of the lease, the PHA may revise the amount of Tenant Rent or of PHA allowances to the Tenant for PHA-furnished or Tenant-purchased utilities. The revised amounts are binding on the Tenant.

(2) From time to time during the course of the lease, the PHA may revise PHA rules. The revised rules are binding on the Tenant.

(o) **PHA offer of lease or revision.** (1) During the lease term, the PHA may offer the Tenant a new lease, or a revision of the lease.

(2) The Tenant is not bound by a new lease or lease revision unless the PHA's offer is accepted by the Tenant.

(3) The offer of a new lease or lease revision shall state that failure to timely accept the PHA's offer is grounds for termination of tenancy. The offer shall state how to accept the offer. The offer may state that the Tenant must accept the lease by a PHA-established deadline which is stated in the offer. Failure to timely accept the PHA offer shall be "other good cause" for termination of tenancy.

(4) For a fixed term lease, at least 60 days before the end of the lease term, the PHA shall give written notice to the Tenant containing either:

(i) The offer of renewal (on the same or revised terms), or

(ii) Notice that the PHA has decided not to renew the lease, including a statement of the grounds, in accordance with § 966.21, for not renewing the lease.

§ 966.11 Prohibited lease provisions.

The following types of lease provisions shall not be included in the lease:

(a) **Agreement to be sued.** Agreement by the Tenant to be sued, to admit guilt, or to a judgment in favor of the PHA, in a court proceeding against the Tenant in connection with the lease.

(b) *Treatment of property.* Agreement by the Tenant that the PHA may take, hold or sell personal property of Household members, without notice to the Tenant and a court decision on the rights of the parties. However, the prohibition of such agreement does not apply to an agreement by the Tenant concerning disposition of personal property remaining in the dwelling unit after the Tenant has moved out of the unit. The PHA may dispose of such personal property in accordance with State law.

(c) *Excusing PHA from responsibility.* Agreement by the Tenant not to hold the PHA or the PHA's agents responsible for any action or failure to act, whether intentional or negligent.

(d) *Waiver of notice.* Agreement by the Tenant that the PHA does not need to give notice of a court proceeding against the Tenant in connection with the lease, or does not need to give any notice required by HUD.

(e) *Waiver of court proceeding for eviction.* Agreement by the Tenant that the PHA may evict Household members (1) without instituting a civil court proceeding in which the Tenant has the opportunity to present a defense, or (2) before a decision by the court on the rights of the parties.

(f) *Waiver of jury trial.* Agreement by the Tenant to waive any right to a trial by jury.

(g) *Waiver of appeal.* Agreement by the Tenant to waive the right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

(h) *Tenant-chargeable with legal costs regardless of outcome.* Agreement by the Tenant to pay lawyer's fees or other legal costs even if the Tenant wins in a court proceeding by the PHA against the Tenant. However, the Tenant may be obligated to pay such costs if the Tenant loses.

§ 966.12 Applicability of lease requirements.

The requirements of Subpart B shall be applicable to any lease executed by a Tenant after [insert effective date of rule], including the execution of a revision or extension after that date.

Subpart C—Termination of Tenancy and Eviction

§ 966.20 Purpose.

This subpart states the requirements for termination of tenancy and eviction. The lease shall contain the requirements stated in this part.

§ 966.21 Termination of tenancy—grounds.

(a) *Grounds for termination.* The PHA shall not terminate the tenancy, and shall not evict occupants from the dwelling unit, except for serious or repeated violation of the lease, or other good cause.

(b) *Serious violation of lease.* Serious violation of the lease includes, but is not limited to, the following cases:

(1) The PHA may determine that failure of the Tenant to timely supply to the PHA any certification, release, information or documentation on Family income or composition is a serious violation of the lease.

(2) The PHA may determine that non-payment of Tenant Rent or charges is a serious violation of the lease. In making this determination, the PHA may consider factors relating to impact of such non-payment on PHA administration of the program. These factors may include the amount owed, how much of the amount owed is overdue, costs of collection, effect of non-payment on collection of rents and charges, how long the payment is overdue, or other factors. The PHA may establish a policy for determining what type of non-payment will be treated as a serious violation of the lease.

(3) See § 966.10(d)(4)(ii) concerning treatment of shut-off of Tenant-purchased utilities as a serious violation of the lease.

(c) *Other good cause.* (1) The PHA may only terminate the lease for other good cause (under § 966.21(a)(2)) at the end of a lease term.

(2) A fixed term lease may be terminated for other good cause at the end of the fixed term. A lease for a periodic tenancy may be terminated for other good cause at the end of each periodic term. For example, in the case of a month-to-month tenancy, the lease may be terminated for other good cause at the end of each month.

(d) *Eviction based on income.* For restrictions on eviction of families based on income, see § 960.210.

§ 966.22 Notice of lease termination.

(a) *Notice period.* The PHA shall give the Tenant adequate written notice of a termination of the lease. The period from the date the notice is given to the date of lease termination may not be less than:

(1) A reasonable time, as determined by the PHA, but not to exceed thirty days, when the health or safety of other residents or of PHA employees is threatened. The PHA may establish a policy for determining what is a "reasonable time" in different types of cases.

(2) Fourteen days for nonpayment of rent.

(3) Thirty days in any other case.

(b) *Contents of notice.* The notice of lease termination shall:

(1) State when the lease will terminate. If the date of lease termination is not known, the notice may specify the event by which the lease terminates under local procedures.

(2) State that the PHA may only terminate the tenancy for serious or repeated violation of the lease, or other good cause.

(3) Contain a specific statement of the reasons for lease termination.

(4) State that the PHA may only evict occupants from the dwelling unit through a civil court proceeding in which the Tenant has the opportunity to present a defense, and after a decision by the court on the rights of the parties.

(c) *How notice is given.* Notice of lease termination shall be given to the Tenant in accordance with the PHA's notice procedure under § 966.10(1)(2).

(d) *Relation to rent bill and to other notices.* (1) *Relation to State law notices.* A notice to vacate or other notice under State or local law may be combined with, or run concurrently with, the notice of lease termination under this section. However, the lease shall in no event terminate before expiration of the notice period under paragraph (a) of this section.

(2) *Relation to PHA rent bill.* The PHA rent bill may be combined with a notice of lease termination for nonpayment of rent. The notice of lease termination shall state that the lease will terminate if the rent bill is not paid when due.

(3) *Relation to notice of adverse action.* If termination of tenancy is not excluded from the PHA grievance process pursuant to Subpart E of this Part, the PHA shall also give notice of proposed adverse action in accordance with § 966.31(b)(2)(i)(B). As provided in that section, the notice of adverse action must be given before, or must be combined with, the notice of lease termination.

§ 966.23 Eviction.

(a) The PHA may only evict occupants from the dwelling unit through a civil court proceeding in which the Tenant has the opportunity to present a defense, and after a decision by the court on the rights of the parties.

(b) The requirement for eviction through a civil court proceeding is binding on the PHA, but is not intended to limit arrest, prosecution or other criminal enforcement activities by Federal, State or local law enforcement authorities against members of the

Household for any crime. The PHA and its officers, employees or agents may act as complainants or witnesses in any criminal enforcement activity, and may cooperate with law enforcement authorities in any criminal enforcement activity.

Subpart D—Administrative Grievance Procedure

§ 966.30 Establishment of grievance procedure.

(a) *Purpose.* Section 6(k) of the U.S. Housing Act of 1937 (as amended by section 204 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, November 30, 1983) provides that HUD shall by regulation require that a PHA establish and implement an administrative grievance procedure concerning any proposed adverse PHA action. Subpart D implements this statutory requirement.

(b) *Establishment of grievance procedure.* The PHA shall establish and implement an administrative grievance procedure for Tenants residing in Public Housing or Indian Housing to provide the opportunity for hearing on any proposed PHA adverse action as described in § 966.31(a)(2).

(c) *Adoption of procedure.* The PHA shall adopt a written administrative grievance procedure in accordance with this Subpart. If a PHA decides to exclude grievances concerning termination of tenancy of eviction from the PHA's administrative grievance procedure (see Subpart E), the administrative grievance procedure shall provide that these grievances are excluded from the procedure.

(d) *Information for Tenant.* (1) The PHA shall provide each Tenant a general written description of the PHA's administrative grievance procedure, including a description of when the PHA is required to provide the opportunity for an informal hearing, and how to request a hearing.

(2) The administrative grievance procedure shall be made available for inspection and copying by any Tenant.

§ 966.31 Grievance on proposed adverse action by PHA.

(a) *Subject and purpose of informal hearing.* (1) The grievance procedure shall provide the Tenant an opportunity for an informal hearing on any proposed PHA adverse action.

(2) Proposed adverse action means any of the following proposed decisions by the PHA concerning an individual Tenant:

(i) A proposed decision to terminate the tenancy, or to evict occupants from the dwelling unit.

(ii) A proposed decision to require the Tenant to move to another dwelling unit (see § 966.10(h)(1)(v) and § 966.10(f)(3)).

(iii) A proposed decision determining:

(A) The amount of the Tenant Rent payable by the Tenant to the PHA or the amount of utility reimbursement by the PHA to the Tenant,

(B) The amount of PHA charges in addition to Tenant Rent (see § 966.10(e)), or

(C) The amount the Tenant owes the PHA for Tenant Rent or PHA charges.

(iv) A proposed decision to take other specific, concrete, and affirmative individualized action contrary to the interests of a Tenant.

(3)(i) The purpose of the informal hearing shall be to review whether the proposed adverse action by the PHA is in accordance with the lease, or with law, HUD regulations or PHA rules.

(ii) PHA action or non-action concerning general policy issues or class grievances (including determinations of the PHA's schedules of allowances for PHA-furnished utilities or of allowances for Tenant-purchased utilities) does not constitute adverse action by the PHA, and the PHA is not required to provide the opportunity for a hearing to consider such issues or grievances.

(4) If the PHA does not conduct a reexamination of Family income and composition: (i) For more than a year after the last examination or reexamination, or (ii) after receiving information concerning a change in Family income or composition between regularly scheduled reexaminations, the PHA's determination of the amount of Tenant Rent payable by the Tenant to the PHA in the absence of a reexamination shall constitute a proposed adverse action under § 966.31(a)(2)(iii)(A). The PHA shall give the Tenant the opportunity for an informal hearing on the PHA failure to conduct a reexamination.

(b) *Notice of proposed adverse action—(1) Contents of notice.* The PHA shall give the Tenant written notice of a proposed adverse action. The notice shall:

(i) Contain a specific statement which describes the proposed adverse action, and the reasons for the proposed adverse action.

(ii) State that the Tenant may request a hearing under the PHA's administrative grievance procedure.

(iii) State how to request a hearing, and the deadline for requesting a hearing.

(2) *When notice is given—(i) Termination of tenancy.* (A) The occupants shall not be evicted from the dwelling unit until the PHA gives the

Tenant notice of proposed adverse action.

(B) For a proposed decision by the PHA to terminate the lease, the notice of proposed adverse action shall be given before, or shall be combined with, the notice of lease termination under § 966.22. If the Tenant makes a timely request for a hearing on the proposed decision, the Tenant shall be given the opportunity for a grievance hearing before expiration of the applicable notice period under § 966.22(a).

(ii) *Requiring Tenant to move.* For a proposed decision by the PHA to require the Tenant to move from the dwelling unit to another dwelling unit, the Tenant may not be required to move until the PHA gives the Tenant notice of proposed adverse action. If the Tenant makes a timely request for a hearing on the proposed decision, the Tenant may not be required to move until the Tenant is given the opportunity for a grievance hearing.

(iii) *Rent or PHA charges.* For a proposed decision by the PHA determining the amount of rent or PHA charges (as described in § 966.31(a)(2)(iii)(A), (B), or (C)), the PHA may give notice of adverse action when the PHA gives Tenant written notice of the proposed decision (see § 966.10(c)(2)). The PHA shall give notice of adverse action no later than the time when the PHA denies a request to change the PHA's proposed decision.

(iv) *Other PHA adverse action.* For a proposed decision by the PHA (as described in § 966.31(a)(2)(iv)) concerning other PHA adverse actions, the PHA shall give notice of adverse action to the Tenant at a time that gives the Tenant the opportunity for a grievance hearing before the adverse action is taken.

(c) *Deadlines—(1) Deadline to ask for a change in proposed PHA decision on rent or PHA charges.* (i) The administrative grievance procedure may provide that a Tenant who wants a change in the rent or charges determined by the PHA, as stated in the PHA notice of rent or charges, must ask the PHA to change the determination by a reasonable deadline as determined by the PHA.

(ii) The PHA notice of rent or PHA charges must give notice of the deadline. The time for the Tenant to ask for a change in the rent or charges runs from the PHA notice of the deadline. The notice shall provide in substance:

(A) If the Tenant believes the proposed determination is not correct, the Tenant may ask the PHA to change the determination.

(B) The deadline to ask for a change.

(C) The Tenant may ask for a grievance hearing on the proposed determination. If the Tenant misses the deadline to ask for a change, the Tenant loses the right to a grievance hearing.

(iii) If the Tenant does not submit by the PHA deadline a request to change the rent or PHA charges stated in the PHA notice of rent or charges, the Tenant loses the right to a hearing on the proposed determination, and the PHA is not required to give notice of proposed adverse action concerning the determination.

(iv) A request to change a proposed determination of rent or PHA charges shall be submitted in the form and manner prescribed by the PHA in the PHA's administrative grievance procedure.

(2) *Deadline for requesting hearing.* (i) The PHA administrative grievance procedure may provide that the Tenant must request a hearing by a reasonable deadline as determined by the PHA.

(ii) The PHA may establish different rules for determining the deadline for requesting a hearing in different circumstances, or for different types of grievance. The deadline for the Tenant to request a hearing shall be stated in the notice of proposed adverse action. The PHA administrative grievance procedure may provide that the PHA may grant a Tenant an exception from the deadline if the PHA determines that the exception is justified by individual circumstances.

(d) *Payment of rent as condition for hearing on rent.* (1)(i) The Tenant may request a grievance hearing on a proposed adverse action (as described in § 966.31(a)(2)(iii)) concerning Tenant Rent (the PHA's proposed decision determining the amount of Tenant Rent, or the amount the Tenant owes the PHA for Tenant Rent). Unless the Tenant has paid the PHA the full amount of rent the Tenant owes, as determined by the PHA (except as provided in § 966.31(d)(1)(ii)), and continues to make such payments promptly until completion of the grievance hearing, the PHA is not required to commence or continue a grievance hearing concerning Tenant Rent.

(ii) The Tenant may challenge an increase in the Tenant Rent as determined by the PHA at reexamination. As a condition for obtaining a grievance hearing on the increase, the PHA may require the Tenant to pay the amount of the Tenant Rent in effect before the increase until completion of the grievance hearing.

(iii) The Tenant may challenge the amount of a decrease in the Tenant Rent as determined by the PHA at reexamination, or may challenge a

determination at reexamination that the Tenant Rent will not increase or decrease. As a condition for obtaining a grievance hearing on the amount of Tenant Rent, the PHA may require the Tenant to pay the PHA the amount of the Tenant Rent, as determined by the PHA at reexamination, until completion of the grievance hearing.

(2) The PHA may not deny the opportunity for a grievance hearing on a proposed adverse action (as described in § 966.31(a)(2)(iii) (B) or (C)) concerning the PHA's proposed decision determining the amount of PHA charges in addition to rent, or the amount the Tenant owes the PHA for PHA charges in addition to rent, on the ground that the Tenant has not paid the PHA the full amount, as determined by the PHA, of the charges the Tenant owes to the PHA.

(e) *Effect of grievance proceeding on eviction.* (1) If the Tenant makes a timely request for a hearing on a proposed decision to terminate the tenancy or to evict the occupants:

(i) For a proposed termination of the lease by the PHA, or a proposed decision not to renew the lease at the end of the lease term, the lease shall not terminate before completion of the PHA grievance hearing. (For provisions concerning notice of lease termination, see § 966.22.)

(ii) The occupants shall not be evicted from the dwelling unit before completion of the PHA grievance hearing.

(2) Where the PHA elects to exclude grievances concerning a termination of tenancy or eviction from the PHA's administrative grievance procedure in accordance with Subpart E of this Part:

(i) The requirement to give notice of a proposed adverse action under § 966.31(b), and the requirement to provide the opportunity for a grievance hearing on such action, does not apply to a termination of tenancy or eviction. (However, the PHA must give notice of lease termination in accordance with § 966.22.)

(ii) In a court action for eviction of the occupants, the PHA is not bound by a grievance hearing decision which is issued after commencement of the eviction action. The Tenant is not entitled to any delay in or continuance of the eviction action because of any pending grievance hearing proceeding.

(f) *Prohibition of hearing fees.* The PHA may not require a Tenant to pay any hearing fees or hearing costs as a condition for providing the Tenant an opportunity for an administrative grievance hearing under the PHA grievance procedure, and may not impose any hearing fees or hearing costs on the Tenant. (However, the PHA may

require the payment of Tenant Rent as a condition for a hearing concerning Tenant Rent in accordance with § 966.31(d).)

(g) *Tenant non-use of grievance process.* The Tenant is not required to use the administrative grievance procedure for review of any PHA adverse action. The Tenant is not barred from using any otherwise available judicial procedure for review of PHA adverse action because of the Tenant's failure to use the PHA administrative grievance procedure for review of such action. Such failure shall not waive or affect the Tenant's right to trial on the issues.

§ 966.32 Hearing procedure.

(a) *Hearing officer.* (1) A hearing under the PHA's administrative grievance procedure shall be conducted by a person or persons (who may be an employee or officer of the PHA) designated by the PHA in the manner required under the PHA's grievance procedure.

(2) The hearing officer shall be someone other than the person who made or approved the decision for the proposed adverse action under review or a subordinate of such person.

(b) *Representation of Tenant.* At its own expense, the Tenant may be represented at the hearing by a person of the Tenant's choice.

(c) *Authority of hearing officer.* The hearing officer may regulate the conduct of the administrative grievance hearing in accordance with the PHA's administrative grievance procedure.

(d) *Examination of relevant materials.* The Tenant shall be permitted to examine and copy any relevant non-privileged documents in the possession or control of the PHA, including records or regulations. This opportunity shall be given at a time that will give the Tenant a reasonable opportunity to make use of the information in the grievance proceeding. If the PHA fails to produce documents timely, in response to the Tenant's request for examination, the hearing officer may prohibit the PHA from using the documents at the hearing.

(e) *Evidence.* (1) The Tenant and the PHA may present evidence, and may question any witnesses. The Tenant and the PHA may have others make statements at the hearing.

(2) Evidence may be considered without regard to admissibility under the rules of evidence which apply in judicial proceedings.

(f) *Expeditious hearing.* The PHA shall proceed with the hearing in a reasonably expeditious manner and in

accordance with the PHA's administrative grievance procedure.

§ 966.33 Hearing decision.

(a) The hearing officer shall issue a written decision which states the basic reasons for the decision. Factual determinations concerning the individual circumstances of the Tenant and Household shall be based on evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the Tenant.

(b) The PHA is not bound by a hearing decision if:

(1) The decision concerns a matter for which an administrative grievance hearing is not required under this Subpart (see § 966.31(a) for required coverage) or otherwise in excess of the authority of the hearing officer, or

(2) The decision is contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local law.

(c) If the PHA determines that it is not bound by the decision of the hearing officer, the PHA shall promptly notify the Tenant in writing of the determination, and of the reasons for the determination.

§ 966.34 Special provisions for Turnkey III of Mutual Help Projects.

Pursuant to § 966.1(c), grievance hearing requirements (24 CFR Part 966, Subparts D and E) are applicable to the Turnkey III Program and the Mutual Help Program. However, the following modifications shall be applicable for these programs, and shall be reflected in the administrative grievance procedure established by the PHA in accordance with § 966.30:

(a) Section 966.31(a)(2) (which defines the meaning of proposed adverse action) shall not be applicable for these programs. For provisions stating cases which constitute proposed adverse action in the Turnkey III Program, see § 904.107(p)(2), and in the Mutual Help Program, see § 905.424(g)(2).

(b)(1) In the Turnkey III Program, either of the following notices may be combined with a notice of proposed adverse action (§ 966.31(b)):

(i) The notice under § 904.107(m)(2) (that the PHA is terminating the Homebuyers Ownership Opportunity Agreement).

(ii) The notice under § 904.107(o)(2) (that the homebuyer has lost homeownership potential and should be transferred to a rental unit).

(2) In the Mutual Help Program, the notice under § 905.424(b) (that the PHA is terminating the MHO Agreement) may be combined with a notice of proposed adverse action (§ 966.31(b)).

§ 966.35 Additional grievance procedures.

Informal PHA administrative grievance hearings to review proposed PHA adverse action are required under this Subpart (§ 966.30 and § 966.31). At its discretion, a PHA may provide additional means for Tenant opportunity to comment upon, or for Tenant opportunity to request PHA consideration of, any matter pertaining to the Tenant's occupancy or the Tenant's rights or obligations. The discretionary PHA procedures may be designed for the purpose of affording an opportunity for informal clarification and resolution of disputes or potential disputes. The PHA may elect to make the administrative grievance procedures adopted by the PHA under § 966.30(c), or the hearing procedures stated in § 966.32, applicable to such additional discretionary procedures adopted by the PHA.

Subpart E—Excluding Grievance on Eviction or Termination of Tenancy From Administrative Grievance Procedure

§ 966.40 Purpose.

The purpose of this Subpart E is to implement the statutory authority for a PHA to exclude grievances concerning termination of tenancy or eviction from the PHA's administrative grievance procedure if HUD determines that applicable law requires that a tenant must be given the opportunity for a hearing in court which provides the basic elements of due process (section 6(k) of the United States Housing Act of 1937, as added by section 204 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181). This subpart establishes a procedure for the HUD determination whether State and local law requires a hearing which provides the basic elements of due process.

§ 966.41 Procedure for HUD determination.

(a) **Exclusion from grievance procedure.** (1) A PHA may exclude grievances concerning termination of tenancy or eviction from the PHA administrative grievance procedure under Subpart D if HUD issues a determination ("due process determination") (under § 966.41(c)) that specified procedures for judicial eviction under State and local law require that a tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit (see definitions of "due process determination" and "elements of due process" in § 966.2).

(2) If HUD issues a due process determination, the PHA may evict the occupants of a dwelling unit through the specified procedures for judicial eviction which are the subject of the determination. The PHA is not required to give notice of proposed adverse action concerning a termination of tenancy or eviction, and is not required to provide the opportunity for a hearing under the PHA's administrative grievance procedure. Unless the PHA uses the specified eviction procedures which are the subject of a due process determination, the PHA may not evict the occupants without providing to the Tenant the opportunity for an administrative grievance hearing (in accordance with Subpart D) prior to eviction.

(3) The PHA's decision to exclude grievances concerning termination of tenancy or eviction from the PHA's administrative grievance procedure adopted by the PHA under Subpart D shall be stated in the grievance procedure.

(4) In a court action for eviction of the occupants, the PHA is not bound by a grievance hearing decision issued after commencement of the eviction action. The Tenant shall not be entitled to any delay in or continuance of the court action because of a pending PHA grievance hearing proceeding.

(b) **PHA request for due process determination.** (1) A due process determination is issued by HUD at the request of the PHA. A PHA which wants a due process determination submits the request for a due process determination to the HUD Field Counsel. A request for a due process determination may be submitted at any time.

(2) A PHA shall give Tenants in the PHA's program reasonably effective general notice that the PHA intends to request a due process determination. The notice shall identify the eviction procedures for which a due process determination will be requested, and shall invite Tenant and other public comment on the proposed determination. The notice shall be given through means determined by the PHA (e.g., posting in project offices, notice to Tenant organizations, or notice to individual Tenants in the program).

(3) A PHA request for a due process determination shall:

(i) State the specific eviction procedures under the State and local law for which the PHA is requesting a due process determination.

(ii) Certify that the PHA has given required general notice to Tenants (in accordance with section 966.41(b)(2)). The PHA shall furnish to HUD copies of

all written public comments on the PHA request which are received by the PHA within 30 calendar days of notice to the Tenants.

(4) (i) The PHA request for a due process determination shall be submitted in the form required by HUD Field Counsel.

(ii) The PHA shall submit any legal analysis or information requested by the HUD Field Counsel for issuance of a due process determination. To avoid the need for duplicative submissions of relevant materials affecting more than one PHA, PHAs may arrange for consolidated submissions to HUD Field Counsel.

(5) Copies of the PHA request for a due process determination, and of the materials submitted to HUD by the PHA in support of the request, shall be made available by the PHA for public inspection and copying by any person.

(c) *Procedure for due process determination by HUD.* (1) In making a due process determination, HUD may use all available relevant information on legal requirements governing procedures for judicial eviction under State and local law, including (without limitation) the test of State or local laws and ordinances, State or local regulations, court rules and court decisions or opinions of a State attorney general. Anyone may submit at any time information relevant to a due process determination.

(2) HUD will give the PHA a statement of the due process determination. The statement shall include:

(i) The name of the PHA.

(ii) A description of the specific eviction procedures which are covered by the due process determination (such as eviction actions brought in a particular local landlord-tenant court).

(iii) A statement that HUD has determined that the procedures provide the elements of due process prior to eviction.

(iv) A statement summarizing the legal basis for HUD's due process determination. The statement will briefly describe the basis for HUD's conclusion that the eviction procedures meet each of the due process elements.

(3) (i) The due process determination is effective when HUD's statement of the determination is given to the PHA.

(ii) After receiving the determination, the PHA may exclude from the PHA administrative grievance procedure any grievances concerning termination of tenancy or eviction by use of the specific eviction procedures which are the subject of the determination.

(iii) At the request of any Tenant, the PHA shall make available for inspection

and copying copies of the due process determination issued by HUD. The HUD Field Office shall also make available for inspection and copying by any person copies of HUD's due process determinations for PHAs in the Field Office jurisdiction.

(4) (i) HUD may revise or withdraw a due process determination at any time. Such action may be based on any available information, including any changes in applicable State or local law, or any court decisions since the original due process determination.

(ii) If HUD decides to revise or withdraw a due process determination, HUD will give the PHA a statement of the decision. The change is effective immediately when the statement is given to the PHA.

PART 960—[AMENDED]

2. The heading for Part 960 is revised to read as follows:

PART 960—ADMISSION TO AND OCCUPANCY OF PUBLIC HOUSING

3. The authority citation for 24 CFR Part 960 is revised to read as follows:

Authority: U.S. Housing Act of 1937 (42 U.S.C. 1437-1437r); section 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

4. In § 960.207, the section heading and paragraph (a) are revised to read as follows:

§ 960.207 Notice and hearing for applicants.

(a) *Ineligible applicant.* (1) The PHA shall give an applicant for admission prompt written notice of a decision that the applicant is not eligible for admission for any reasons. The notice shall inform the applicant of the basic reasons for the decision. The notice shall also state that the applicant may request an informal hearing on the decision, and shall describe how to obtain the informal hearing.

(2) The PHA shall give the applicant an opportunity for an informal hearing on the decision, in accordance with procedures adopted by the PHA. The hearing shall be held within a reasonable time of the decision. The informal hearing shall be conducted by a person or persons (who may be an officer or employee of the PHA) designated by the PHA in accordance with the applicant hearing procedures adopted by the PHA. The hearing officer shall be someone other than the person who made the decision under review or a subordinate of such person. The applicant shall be given an opportunity to present written or oral objections to the PHA decision. The PHA shall

promptly notify the applicant in writing of the final PHA decision after the informal hearing. The notice shall state the basic reasons for the decision.

(3) The informal review provisions for the denial of a Federal preference under § 960.211 are contained in paragraph (k) of that section.

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS

5. The authority citation for Part 913 continues to read as follows:

Authority: Secs. 3, 6, and 16, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437d, and 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. The definition of "Total Tenant Payment" in § 913.102 is revised to read as follows:

§ 913.102 Definitions.

Total Tenant Payment. The monthly amount calculated under § 913.107. Total Tenant Payment does not include any PHA charges to Tenant in addition to Tenant Rent, including surcharges for excess consumption of PHA-furnished utilities or other PHA charges.

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

7. The authority citation for 24 CFR Part 904 is revised to read as set forth below:

Authority: U.S. Housing Act of 1937 (42 U.S.C. 1437-1437r); section 204 of the Housing and Urban-Rural Recovery Act of 1984, Pub. L. 98-181, November 30, 1983; section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

8. In § 904.107, the section heading is revised, paragraph (l)(3) is revised, paragraph (m)(1) is revised, and paragraph (p) is added, to read as follows:

§ 904.107 Responsibilities of homebuyer; administrative grievance hearing.

(1) * * *

(3) If there is no qualified successor in accordance with paragraph (l)(2) of this section, the LHA shall terminate the Agreement and another family shall be selected except in the following circumstances: Where a minor child or children of the homebuyer family are in occupancy, then in order to protect their continued occupancy and opportunity

for acquisition of ownership of the home, the LHA may approve as occupants of the unit, an appropriate adult(s) who has been appointed legal guardian of the children with a duty to perform the obligations of the Homebuyers Ownership Opportunity Agreement in their interest and behalf. To terminate the Agreement in accordance with this paragraph (1)(3), the LHA shall give adequate written notice of termination, which shall not be less than 30 days.

(m) *Termination by LHA.* (1) The LHA may terminate the Homebuyers Ownership Opportunity Agreement, 30 days after giving the homebuyer notice in accordance with paragraph (m)(2) of this section, if there is any serious or repeated violation by the homebuyer of the homebuyer's obligations under the Agreement. The LHA may determine that failure to make the required monthly payment within ten days after its due date, or misrepresentation or withholding of information in applying for admission or in connection with any subsequent reexamination of family income and composition, constitutes a serious breach of the homebuyer's obligations under the Agreement.

(p) *Administrative grievance procedure.* (1) Pursuant to § 966.1(c) and § 966.34, administrative grievance requirements (24 CFR Part 966, Subparts D and E, as modified in accordance with § 966.34) are applicable to the Turnkey III Program.

(2) The following shall be considered proposed adverse actions by the LHA under 24 CFR Part 966:

(i) A proposed LHA decision determining the amount of the required monthly payment or of the utility reimbursement by the LHA to the homebuyer, the amount of charges by the LHA against the homebuyer's EHPA or NRMR, or the amount the homebuyer owes the PHA for the required monthly payment, or determining the LHA's proposed settlement at termination of the homeownership agreement or at purchase of the home by the homebuyer.

(ii) A proposed decision that the homebuyer has lost homeownership potential and should be transferred to a rental unit (see § 904.107(o)(2)).

(iii) A proposed decision to terminate the Homebuyers Ownership Opportunity Agreement, or to evict the family from the home.

(iv) A proposed decision to take other specific, concrete and affirmative individualized action contrary to the interests of a homebuyer.

PART 905—INDIAN HOUSING

9. The authority citation for 24 CFR

Part 905 is revised to read as set forth below and any authority citation following any section in Part 905 is removed:

Authority: U.S. Housing Act of 1937 (42 U.S.C. 1437-1437r); section 204 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, November 30, 1983; section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

10. Section 905.303 is revised to read as follows:

§ 905.303 Tenant leases for rental projects.

A written lease shall be entered into between the IHA and the tenant of a dwelling unit in an IHA Rental Project. The lease:

(a) Shall obligate the IHA to maintain the project in a decent, safe and sanitary condition,

(b) Shall require the IHA to give adequate written notice of termination of the lease in accordance with § 966.22,

(c) Shall require that the IHA may not terminate the tenancy except for the grounds stated in § 966.21, and

(d) Shall not include any of the types of lease provisions prohibited in § 966.11.

11. In § 905.424, the section heading is revised, paragraph (a) is revised, paragraph (f)(3) is revised, and a new paragraph (g) is added, to read as follows:

§ 905.424 Termination of MHO Agreement; administrative grievance procedure.

(a) *Termination upon breach.* The IHA may terminate the MHO Agreement if there is any serious or repeated violation by the Homebuyer of the Homebuyer's obligations under the MHO Agreement. The IHA may determine that misrepresentation or withholding of material information in applying for admission or in connection with any subsequent reexamination of income and family composition constitutes a serious breach of the Homebuyer's obligations under the MHO Agreement. "Termination" as used in the MHO Agreement does not include acquisition of ownership by the Homebuyer.

(f)
(3) Compliance with the plan shall be checked by the IHA not later than 30 days from the date thereof. If the Homebuyer refuses to agree to such a plan, or fails to comply with the plan, the IHA shall issue a notice of termination of the MHO Agreement in accordance with paragraph (b) of this section, and shall proceed to evict the Homebuyer. The IHA may only evict the Homebuyer from the Home: (i) Through a civil court proceeding in which the

Homebuyer has the opportunity to present a defense, and (ii) after a decision by the court on the rights of the parties.

(g) *Administrative grievance procedure.* (1) Pursuant to § 966.1(c) and § 966.34, administrative grievance requirements (24 CFR Part 966, Subparts D and E, as modified in accordance with § 966.34) are applicable to the Mutual Help Program.

(2) The following shall be considered proposed adverse actions by the IHA under 24 CFR Part 966:

(i) A proposed decision determining the amount of the Homebuyer's MH Contribution credits.

(ii) A proposed decision determining the amount of the Required Monthly Payment, the amount the Homeowner owes the IHA for the Required Monthly Payment, or the amount of charges by the IHA against the Homebuyer's reserves and accounts under § 905.421, or determining the IHA's proposed settlement at termination of the MHO Agreement or at purchase of the Home by the Homebuyer.

(iii) A proposed decision to terminate the Mutual Help and Occupancy Agreement, or to evict the family from the Home.

(iv) A proposed decision to take other specific, concrete and affirmative individualized action contrary to the interests of the Homebuyer.

(3) The IHA's determination (under § 905.419) of the Administration Charge for the IHA's Mutual Help Program does not constitute adverse action by the IHA, and the IHA is not required to provide the opportunity for a hearing to consider such determination (see also § 966.31(a)(3)).

12. In § 905.425, paragraph (g) is revised to read as follows:

§ 905.425 Succession upon death, mental incapacity or abandonment.

(g) *Termination in absence of qualified successor or occupant.* If there is no qualified successor in accordance with any of the foregoing paragraphs of this section, the IHA shall terminate the MHO Agreement. To terminate the Agreement in accordance with this paragraph (g), the IHA shall give adequate written notice of termination, which shall not be less than 30 days.

Date: August 17, 1988.

J. Michael Dorsey,
Acting Secretary of Housing and Urban Development.

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BILLING CODE 4210-33-M



City of Cambridge

19.

IN CITY COUNCIL

November 21, 1988

COUNCILLOR GRAHAM

ORDERED: That this City Council go on record as strongly opposing the new rules and regulations in regards to public housing tenants; and be it further

ORDERED: That the City Clerk be and hereby is requested to forward a suitably engrossed copy of this resolution to the Speaker of the House, Vice President of the Senate, all U.S. Congressional Members and U.S. Senatorial Members.

In City Council November 21, 1988.
Adopted by the affirmative vote of 9 members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy;

Joseph E. Connarton
ATTEST:

Joseph E. Connarton, City Clerk.

Order #19

15.713

C. Graham order re: that the City Council
go on record strongly opposing the new rules
& regulations in regard to public housing
tenants.

In City Council,

November 21, 1988

11-21-88

C. Graham

Order Adopted

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