

person with disabilities. This restriction against PHA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to PHA approval of a new tenancy with continued tenant-based assistance in the same unit.

(e) Nothing in this rule is intended to give any owner any right to participate in the program.

(f) For purposes of this section, “owner” includes a principal or other interested party.

[60 FR 34695, July 3, 1995, as amended at 63 FR 27437, May 18, 1998; 64 FR 26644, May 14, 1999; 64 FR 56913, Oct. 21, 1999; 65 FR 16821, Mar. 30, 2000; 72 FR 73496, Dec. 27, 2007]

§ 982.307 Tenant screening.

(a) *PHA option and owner responsibility.* (1) The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy. The PHA must conduct any such screening of applicants in accordance with policies stated in the PHA administrative plan.

(2) The owner is responsible for screening and selection of the family to occupy the owner’s unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner.

(3) The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a family’s background with respect to such factors as:

- (i) Payment of rent and utility bills;
- (ii) Caring for a unit and premises;
- (iii) Respecting the rights of other residents to the peaceful enjoyment of their housing;
- (iv) Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and

(v) Compliance with other essential conditions of tenancy.

(b) *PHA information about tenant.* (1) The PHA must give the owner:

- (i) The family’s current and prior address (as shown in the PHA records); and

- (ii) The name and address (if known to the PHA) of the landlord at the family’s current and prior address.

(2) When a family wants to lease a dwelling unit, the PHA may offer the owner other information in the PHA possession, about the family, including information about the tenancy history of family members, or about drug-trafficking by family members.

(3) The PHA must give the family a statement of the PHA policy on providing information to owners. The statement must be included in the information packet that is given to a family selected to participate in the program. The PHA policy must provide that the PHA will give the same types of information to all families and to all owners.

(4) In cases involving a victim of domestic violence, dating violence, or stalking, 24 CFR part 5, subpart L, applies.

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§ 982.308 Lease and tenancy.

(a) *Tenant’s legal capacity.* The tenant must have legal capacity to enter a lease under State and local law. “Legal capacity” means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

(b) *Form of lease.* (1) The tenant and the owner must enter a written lease for the unit. The lease must be executed by the owner and the tenant.

(2) If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form (plus the HUD-prescribed tenancy addendum). If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease (including the HUD-prescribed tenancy addendum). The HAP contract prescribed by HUD will contain the owner’s certification that if the owner uses a standard lease form