

## Chapter 2

### ELIGIBILITY FOR ADMISSION

#### [24 CFR Part 960, Subpart B]

#### **INTRODUCTION**

This Chapter defines both HUD's and RCRHA's criteria for admission and denial of admission to the program. The policy of RCRHA is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. RCRHA staff will review all information provided by the family carefully and without regard to factors other than those provided with the regulation and RCRHA policies. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by RCRHA pertaining to their eligibility.

#### **Exemption from Eligibility Requirements for Police Officers and Other Security Personnel**

The Authority shall be permitted to admit to Public Housing, police officers and other security personnel who are not otherwise eligible for such housing under any other admission requirements or procedures (i.e. police officers would not be required to be income eligible to qualify for admission to the Public Housing program.) HUD's objective in granting this exemption is to permit long-term residency in public housing developments of police officers and security personnel whose visible presence is expected to serve as a deterrent to criminal activity in and around housing.

Before RCRHA would be permitted to house police officers or other security personnel under this provision and as contained in the five-year plan, RCRHA would submit to HUD the Housing Authority's standards and criteria for approval/waiver of admission criteria in accordance with 24 CFR 960.501.

#### **A. QUALIFICATION FOR ADMISSION**

It is RCRHA's policy to admit qualified applicants only. An applicant is qualified if he or she meets the following criteria:

Is a family as defined by regulation;

Where at least one member of the household is either a U.S. citizen or is an eligible non-citizen. (24 CFR Part 5, Subpart E).

Has an Annual Income at the time of admission that does not exceed the low-income limits for occupancy established by HUD and posted separately in the PHA offices.

The Quality Housing and Work Responsibility Act of 1998 authorizes PHAs to admit

families whose income does not exceed the low-income limit (80% of median area income) and the PHA is required to meet the annual 40% targeted income requirement of extremely low-income families (families whose income does not exceed 30% of median area income). It is the policy of the RCRHA to meet the income-targeting requirement.

Provides a Social Security number (SSN) for all family members that have a SSN or will provide written certification that they do not have Social Security numbers;

Meets or exceeds the standards for the criminal background check;

Meets or exceeds the tenant Selection and Suitability Criteria as set forth in this policy.

**This student eligibility criteria listed below does not apply to Public Housing, but only applies to the Section 8 Program.**

Restrictions on Assistance to Students Enrolled In Institution of Higher Education

No assistance shall be provided under Section 8 of the 1937 Act to any individual who:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965;
- Is under 24 years of age;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child; and
- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under Section 8 of the 1937 Act.

### **Timing for the Verification of Qualifying Factors**

The qualifying factors of eligibility will be verified at the time of application to determine the family's status and/or position on the waiting list to be offered a housing unit.

## **B. FAMILY COMPOSITION**

### **Definition of Family**

The applicant must qualify as a Family. A family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that they are not related by blood, marriage or operation of law. For occupancy standards purposes, the applicant may claim a spousal relationship. (See Chapter 5, Occupancy Guidelines.)

A group of persons is defined by RCRHA as two or more persons who intend to share residency, and whose income and resources are available to meet the family's needs, and will live together

in RCRHA housing.

The term "Family" includes, but is not limited to:

A family with or without children;

An elderly family;

A disabled family;

A displaced family;

The remaining member of a tenant family;

A single person who is not elderly, displaced, or a person with disabilities, or the remaining member of a tenant family;

Two or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family;

Two or more near-elderly persons living together, or one or more near-elderly persons living with one or more live-in aides.

The temporary absence of a child from the home due to placement in foster care shall be considered in determining the family composition and family size.

For the purposes of the definition of a qualified family and admission of a single higher education student, **the restrictions on assistance to students enrolled in an institution of higher education do not apply to public housing.** (24 CFR 5.612)

### **Head of Household**

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law.

Emancipated minors who qualify under State law will be recognized as head of household if there is a court order recognizing them as an emancipated minor.

### **Spouse of Head**

Spouse means the husband or wife of the head.

For proper application of the Noncitizens Rule, the definition of spouse is: the marriage partner whom, in order to dissolve the relationship, would have to be divorced. The term "spouse" does

not apply to boyfriends, girlfriends, significant others, or co-heads.

**Co-head**

An individual in the household who is equally responsible for the lease with the Head of Household. A household may have either a spouse or co-head, but not both. A co-head never qualifies as a dependent.

**Live-In Aide**

A Family may include a live-in aide provided that such live-in aide:

Is determined by RCRHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,

Is not obligated for the support of the person(s), and

Would not be living in the unit except to provide care for the person(s).

A live-in aide is not considered to be an assisted family member and has no rights or benefits under the program:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to Non-Citizen Rule requirements.

Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

Family members of a live-in aide may also reside in the unit, providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the family member(s) does not overcrowd the unit. The family will be eligible to increase the bedroom size by one bedroom to accommodate the live-in aide status.

A Live-in Aide may only reside in the unit with the approval of RCRHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

RCRHA will screen and qualify the live-in aide and the live-in aide must be eligible under non-criminal background requirements and must also have the necessary skills to meet the needs of the individual requesting the reasonable accommodation.

RCRHA has the right to disapprove a request for a live-in aide based on the "Other Eligibility Criteria" described in this Chapter.

**C. MANDATORY SOCIAL SECURITY NUMBERS** [24 CFR 5.216]

Families are required to provide verification of Social Security Numbers for all family members if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of Social Security Numbers is grounds for denial of admission or termination of tenancy.

If a member does not have a Social Security Number they must sign a certification stating that they do not have one. The certification shall:

- state the individual's name, state that the individual has not been issued a Social Security Number;
- state that the individual will disclose the Social Security Number, if they obtain one at a later date;
- be signed and dated.

**D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD. Those six categories are:

1. A noncitizen who has been lawfully admitted to the U. S. for permanent residence, as defined by Section 101(a)(20) of the Immigration and Nationality Act (INA) as an immigrant, as defined by Section 101(a)(15) of the INA (8 U.S.C. 1101(a)(20) and 2101(a)(15), respectively (immigrants). This category includes a noncitizen who has been admitted under Section 210 or 210A of the INA (8 U.S.C. 1160 or 1161), (special agricultural worker), and who has been granted lawful temporary resident status;
2. A noncitizen who entered the U. S. before January 1, 1972, or such later date as enacted by law, and who has continuously maintained residence in the U. S. since then, and who is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the

Attorney General under Section 249 of the INA (8 U.S.C. 1259);

3. A noncitizen who is lawfully present in the U. S. pursuant to an admission under Section 207 of the INA (8 U.S.C. 1157) (refugee status); pursuant to the granting of asylum (which has not been terminated) under Section 208 of the INA (8 U.S.C. 1158) (asylum status); or as a result of being granted conditional entry under Section 203(a)(7) of the INA (U.S.C. 1153(a)(7) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic national calamity;
4. A noncitizen who is lawfully present in the U.S. as a result of an exercise of discretion by the Attorney General for emergent reasons or for reasons deemed strictly in the public interest under Section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) (parole status);
5. A noncitizen who is lawfully present in the U. S. as a result of the Attorney Generals' withholding deportation under Section 243(h) of the INA (8 U.S.C. 1253(h)) (threat to life or freedom); or
6. A noncitizen lawfully admitted for temporary or permanent residence under Section 245A of the INA (8 U.S.C. 1225a) (amnesty granted under INA 245A).

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed" families. Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

No eligible members. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students defined by HUD in the noncitizen regulations are not eligible for assistance.

No individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least one individual or family member.

## **E. OTHER ELIGIBILITY CRITERIA**

All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate the ability to comply

with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and past behavior the ability:

- to pay rent and other charges as required by the lease in a timely manner;
- to care for and avoid damaging the unit and common areas;
- to use facilities, appliances and equipment in a reasonable way;
- to create no health or safety hazards, and to report maintenance needs in a timely manner;
- not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others;
- not to engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off RCRHA premises;
- not to have ever been convicted of manufacturing or producing methamphetamine, also known as "speed," on the premises of assisted housing;
- not to be subject to lifetime sex offender registration requirement;
- not owe debts to other landlords or public utilities;
- to not commit fraud against any assisted housing program;
- to comply with necessary and reasonable rules and program requirements of HUD and RCRHA; and,
- to comply with local health and safety codes.

**Denial of Admission for Previous Debts to This or Any Other PHA**

Previous outstanding debts to RCRHA or any Public Housing Authority (PHA) resulting from a previous tenancy in the public housing, Section 8, or assisted housing program must be paid in full prior to admission.

Applicants with previous PHA debts will be permitted to execute a Payment Agreement at the time of application, but 100% of the debt must be paid prior to offer of a unit.

RCRHA reserves the right, in the case of extreme hardship, i.e. homelessness, to enter into a Payment Agreement. Full documentation of the hardship will be required. In no case will the debt be forgiven.

Either spouse is responsible for the entire debt incurred as a previous RCRHA tenant. Children of the head or spouse who had incurred a debt to RCRHA will not be held responsible for the parent's previous debt.

**Denial of Admission for Previous Debts to Landlords and Public Utilities**

Previous outstanding debts to public utilities or previous landlords shall be paid before the applicant is processed by RCRHA for a unit to be occupied.

Applicants with previous PHA debts will be permitted to execute a Payment Agreement at the time of pre-application, but 100% of the debt must be paid prior to offer of a unit.

RCRHA reserves the right, in the case of extreme hardship, i.e. homelessness, to enter into a Payment Agreement. Full documentation of the hardship will be required. In no case will the debt be forgiven.

**F. NON-ECONOMIC ELIGIBILITY CRITERIA, INCLUSIVE OF “ONE STRIKE”**

In developing its admission policies, the aim of RCRHA is to attain a resident body composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families and families with serious social problems. Therefore, it is the policy of RCRHA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood, or on the quality of life for its residents.

As part of eligibility determination, the Authority will screen each applicant household to assess its suitability as renters.

Factors not related to economics to be considered are housekeeping habits, prior history as a tenant, criminal records, and the ability of the applicant to maintain the responsibilities of tenancy.

In determining qualifications for tenancy, RCRHA shall consider the following items:

Whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety, or welfare of other residents, or the physical, environmental, or financial stability of the development.

RCRHA shall rely upon sources of information which may include, but not limited to,

RCRHA records, the records of other housing authorities, personal interviews with the applicant or tenant, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians, or the police department. This will be done in order to determine whether the individual attributes, prior conduct, and behavior of a particular applicant or tenant is likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety, or welfare.

An authorized representative of RCRHA shall document any pertinent information relative to the following:

Criminal Activity – including the activities further defined herein as of a criminal nature.

Pattern of Violent Behavior – includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to neighbors' peaceful enjoyment of their premises. HUD defines violent criminal activity as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity was/is being engaged in by any family member.

Pattern of Drug Use – includes a determination by RCRHA that the applicant has exhibited a pattern of illegal use of a controlled substance that might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Drug Related Criminal Activity – includes a determination by RCRHA that the applicant has been involved in the illegal manufacture, sale, distribution, use or possession of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Pattern of Alcohol Abuse – includes a determination by RCRHA that the applicant's pattern of alcohol abuse might interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.

Initiation of Threats – or behaving in a manner indicating an intent to assault employees or other residents.

Abandonment of a Public Housing Unit or Other Assisted Housing Unit ("skipped") – any abandonment of a unit assisted by HUD without advising the administering housing authority's personnel of intent to vacate so that the unit may be properly secured and protected from any vandalism.

Non-payment of Rightful Obligations – including rent and/or utilities and other

charges owed to RCRHA or another housing authority.

Intentionally Falsifying an Application for Leasing – including providing false information about family income and family composition, using an alias on the application for housing, or making any other material false statement or omission intended to mislead.

Record of Serious Disturbances of Neighbors, Destruction of Property or Other Disruptive or Dangerous Behavior – consists of patterns of behavior which endanger the life, safety, or welfare of other persons by physical violence, gross negligence or irresponsibility, which damage the equipment or premises in which the applicant resides, or which are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant's inability to adapt to living in a multi-family setting. Includes judicial termination of tenancy in previous housing on grounds of nuisance or objectionable conduct, or frequent loud parties, which have resulted in serious disturbances of neighbors.

Unsanitary Housekeeping – includes the creation of a fire hazard through acts such as hoarding rags, papers, or other materials; severe damages to premises and equipment caused by the family or persons under control of the family; seriously affecting neighbors by causing infestations, foul odors, depositing garbage outside of normal trash receptacles, or serious neglect of the premises. This category does not include families whose housekeeping is found to be superficially unclean or due to lack of orderliness, where such conditions do not create a problem for neighbors or a threat to health and safety.

Destruction of Property – damage to any previous rentals or property that the family has resided in.

Whether Applicant or Tenant is Capable of Maintaining the Responsibilities of Tenancy – In the case of applicants for admission, the person's present living arrangements and a statement obtained from the applicant's physician or social worker will be among factors considered in making this determination. The availability of a Live-In Aide will be considered also in making this determination.

In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct, and to factors that might indicate a reasonable probability of favorable future conduct.

The RCRHA shall not admit persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug related criminal activity within the past seven (7) years preceding determination of eligibility. (See also Item 6 below re methamphetamine.)

The RCRHA may waive this requirement if the person demonstrates that he/she:

Has successfully completed a supervised drug or alcohol rehabilitation program approved by RCRHA;

Has otherwise been rehabilitated successfully;

Is participating in a supervised drug or alcohol rehabilitation program; or,

The circumstances leading to the eviction no longer exists (i.e. the individual involved in drugs is no longer in the household because the person is incarcerated).

In no event shall a person convicted of manufacturing or producing methamphetamine (also called “speed”) be determined eligible for public housing. Such individuals are permanently denied admission to all federally assisted housing programs.

The RCRHA shall not admit persons whose pattern of illegal use of a controlled substance or pattern of abuse of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents within the past seven (7) years preceding the date of application.

The RCRHA shall not admit persons who have engaged in violent criminal activity within the seven (7) years preceding the date of application.

The RCRHA shall not admit persons that have been engaged in the illegal drug activity within the seven (7) years preceding the date of application.

Persons incarcerated must demonstrate behavior that is acceptable outside of the incarcerated environment for at seven (7) years.

The RCRHA shall not admit any person classified as a “habitual criminal” or any person subject to a lifetime sex offender registration requirement under a State sex offender registration program.

The RCRHA shall not admit persons whose conduct in present or prior housing has been such that admission to the program would adversely affect the health, safety, or welfare of other residents, or the physical environment, or the financial stability of the development. If in the past the RCRHA initiated a lease termination, which may or may not have resulted in eviction for any reason cited under the One Strike Notice (PIH 96-27) or amended changes, for a family, as a prior resident of public housing, the family shall be ineligible for admission to Public Housing for a seven (7) year period beginning on the date of such eviction. The RCRHA will not waive this requirement, even in the event of rehabilitation

efforts on part of the family or family member.

In determining the criminal background for admission, the RCRHA will not deny the family if the member is a “victim” of domestic violence as stated and protected under the Violence Against Women Act.

### **Administration**

All screening procedures shall be administered fairly and in such a way as not to discriminate on the basis of race, color, nationality, religion, sex, familial status, disability or against other legally protected groups, and not to violate right to privacy.

To the maximum extent possible, the RCRHA will involve other community and governmental entities in the promotion and enforcement of this policy.

In evaluating evidence of negative past behavior, the RCRHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

The RCRHA will ensure that any criminal record received is maintained confidentially, not misused, or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished. (See section on page 1-9)

When the RCRHA takes any adverse action based on a criminal conviction record, the applicant may request, and the RCRHA will provide, a copy of the criminal record and an opportunity to dispute the record at an informal hearing. (Tenants may also contest such records at the court hearing in the case of evictions.)

### **Hearings**

(See Chapter titled “Complaints, Grievances and Appeals”)

If information is revealed that would cause the RCRHA to deny admission to the household and the person disputes the information, he/she shall be given an opportunity for an informal hearing according to RCRHA’s hearing procedures outlined in the Chapter on Complaints, Grievances and Appeals.

### **G. SCREENING FOR SUITABILITY** [24 CFR 960.204, 960.205]

It is the policy of RCRHA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood, or on the quality of life for its residents.

RCRHA will conduct a detailed interview of all applicants. The interview form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements

of tenancy. All information will be subject to third party verification.

An applicant's intentional misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition or rent will result in denial of admission.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease, either all or with assistance which they can demonstrate that they have or will have at the time of admission. (24 CFR 8.2 Definition: Qualified Individual with Handicaps) The availability of assistance is subject to verification by RCRHA.

The PHA's minimum age for admission as head of household is 18. This requirement is to avoid entering into leases that would not be valid or enforceable under applicable law. Exception to the age requirement may be granted to those with emancipation status as granted by a court of law. RCRHA will not allow under any circumstances a parent or legal guardian to co-sign a lease on behalf of an applicant in order to bypass the age requirement.

As a part of the final eligibility determination, RCRHA will screen each applicant household to assess their suitability as renters.

RCRHA may complete a credit check of each applicant so as to determine past rental history, including any possibility of bad debts to any federally assisted housing programs.

RCRHA shall rely upon sources of information which may include, but not be limited to, RCRHA records, personal interviews with the applicant or tenant, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians or the police department.

This will be done in order to determine whether the individual attributes, prior conduct, and behavior of a particular applicant is likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare.

Factors to be considered in the screening are housekeeping habits, rent paying habits, prior history as a tenant, criminal records, the ability of the applicant to maintain the responsibilities of tenancy, and whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety or welfare of other residents, or the physical environment, or the financial stability of the project.

RCRHA's examination of relevant information pertaining to past and current habits or practices will include, but is not limited to, an assessment of:

- The applicant's past performance in meeting financial obligations, especially rent.

- Eviction or a record of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences which may adversely affect the health, safety, or welfare of other tenants or neighbors.
- Any history of criminal activity on the part of any applicant family member involving criminal acts, including drug-related criminal activity.
- Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors.
- Any history of initiating threats or behaving in a manner indicating an intent to assault employees or other tenants.
- Any history of alcohol or substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.
- The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by RCRHA. The information to be considered in the screening process shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application in present and prior housing.

The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

- Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare. [24CFR 960.205(b)]
- Adversely affect the physical environment or financial stability of the project. [24CFR 960.205(b)]
- Violate the terms and conditions of the lease. [24CFR 8.3].
- Require services from PHA staff that would alter the fundamental nature of the PHA's program. [24 CFR 8.3]

### **Rent Paying Habits**

RCRHA will examine any Housing Authority records from a prior tenancy, and will request written references from the applicant's current landlord and may request written references from former landlords (for up to the past 7 years).

Based upon these verifications, RCRHA will determine if the applicant was chronically late with rent payments, was evicted at any time (during the past 7 years) for nonpayment of rent, or had other legal action initiated against him/her for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

Applicants will not be considered to have a poor credit history if they were late paying rent because they were withholding rent due to substandard housing conditions in a manner consistent with a local ordinance; or had a poor rent paying history clearly related to an excessive rent relative to their income (using 50% of their gross income as a guide,) and responsible efforts were made by the family to resolve the nonpayment problem.

The lack of credit history will not disqualify a family, but a poor credit history will, with the exceptions noted above.

### **Screening Applicants Who Claim Mitigating Circumstances**

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into the PHA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, RCRHA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. RCRHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

### **Examples of Mitigating Circumstances**

Examples of mitigating circumstances include:

Evidence of successful rehabilitation;

Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by RCRHA; and/or

Evidence of the applicant family's successful and sustained modifications of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. RCRHA will consider such circumstances in light of:

- The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and
- The applicant's overall performance with respect to all the screening requirements.

### **Qualified and Unqualified Applicants**

Information that has been verified by RCRHA will be analyzed and a determination will be made with respect to:

- The eligibility of the applicant as a family;
- The eligibility of the applicant with respect to income limits for admission;
- The eligibility of the applicant with respect to citizenship or eligible immigration *status*;
- The eligibility of the family for suitability, non-criminal requirements, etc.;
- Preference category to which the family is entitled.

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both INS and PHA procedures, except for a pending PHA hearing.

Applicants who are determined to be unqualified for admission will be promptly notified with a Notice of Denial of Admission stating the reason for the denial. In the case of criminal status denial for admissions, the RCRHA will provide the opportunity to review the documents prior to the denial. RCRHA shall provide applicants an opportunity for an informal hearing (see Chapter titled "Complaints, Grievances, and Appeals.")

Applicants who have requested a reasonable accommodation as a person with a disability and who have been determined eligible, but fail to meet the Applicant Selection Criteria, will be offered an opportunity for a second meeting to have their cases examined to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the screening procedures.

RCRHA will make every effort to accurately estimate an approximate date of occupancy. However, the date given by RCRHA does not mean that applicants should expect to be housed by that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by RCRHA, such as turnover rates, and market demands as they affect bedroom sizes and project location.

### **Documenting Findings**

An authorized representative of RCRHA shall document any pertinent information received relative to the admission and eligibility requirements.

In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct or financial prospects.

### **Prohibited Criteria for Denial of Admission**

Applicants will NOT be rejected because they:

- Have no income;
- Are not employed;
- Do not participate in a job-training program;
- Will not apply for various welfare or benefit programs;
- Have children;
- Have children born out of wedlock;
- Are on welfare;
- Are eligible students.

## **H. CRITERIA FOR DECIDING TO DENY ASSISTANCE or TERMINATION**

### **RCRHA Policy**

The RCRHA will use the concept of the preponderance of the evidence as the standard for making all admission and termination decisions.

*Preponderance of the evidence* is defined as the greater weight of the evidence; that is, evidence that you believe because it outweighs or overbalances in your mind the evidence opposed to it. A preponderance means evidence that is more probable, more persuasive, or of greater probative value. It is the quality of the evidence that must be weighed. Quality may, or may not, be identical with (quantity)(the greater number of witnesses).

Consider all evidence. In determining whether an issue has been proved by a preponderance of the evidence, you should consider all of the evidence, regardless of who produced it.

Equally balanced. If the weight of the evidence is equally balanced, or if you are unable to determine which side of an issue has the preponderance, the party who has the burden of proof has not established such issue by a preponderance of the evidence.

## **I. HEARINGS**

If information is revealed that would cause RCRHA to deny admission to the household and the person disputes the information, s/he shall be given an opportunity for an informal hearing according to RCRHA's hearing procedures outlined in Chapter 13, Complaints, Grievances and Appeals.