

# CHAPTER 8

## HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

### A. Physical Standards

### B. The Inspection Process

### C. Rent Reasonableness

## INTRODUCTION

This chapter refers to 24 CFR 982 Subpart I-A and 24 CFR 982.507. HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements.

HUD requires that units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area. Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15, to the extent that they apply in this jurisdiction.

## A. PHYSICAL STANDARDS

### GENERAL HUD REQUIREMENTS

#### HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. A summary of HUD performance criteria is provided in Exhibit 8.1 in the Exhibits. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988



### Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8.2 (Exhibits) summarizes those items that are considered tenant preferences.

### Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

## OCHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.

## ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

### Thermal Environment

The PHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate. [HCV GB p.10-7]

## OCHA Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and April 30. From May 1 to September 30, the cooling system must be capable of maintaining an interior temperature of 78 degrees.

## Clarifications of HUD Requirements

### OCHA Policy

As permitted by HUD, OCHA has adopted the following specific requirements that elaborate on HUD standards.

- Walls
  - In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.
- Windows
  - Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.
  - Windows must be weather-stripped as needed to ensure a weather-tight seal.
  - Window screens must be in good condition (applies only if screens are present).



- Doors
  - All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
  - All interior doors must have no holes, have all trim intact, and be openable without the use of a key.
- Floors
  - All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.
  - All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
  - All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.
- Sinks
  - All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
  - All sinks must have functioning stoppers.
- Toilets
  - All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.
- Security
  - If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

## LIFE-THREATENING CONDITIONS

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whoever is responsible as explained in 8-1.D) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification. [24 CFR 982.404(a); FR Notice 1/18/17]

### OCHA Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled
- Any electrical problem or condition that could result in shock or fire
- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
- A light fixture is hanging by its wires
- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit
- A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed
- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
- Exposed bare wires or electrical connections
- Any condition that results in openings in electrical panels or electrical control device enclosures
- Water leaking or ponding near any electrical device

- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
  - Any components that affect the function of the fire escape are missing or damaged
  - Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency
  - The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency
- Absence of a functioning toilet in the unit
- Plumbing problems leading to sewage entering the premises
- Inoperable or missing smoke detectors
- Missing or inoperable carbon monoxide detector
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
  - The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
  - A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
  - A fuel-fired space heater is not properly vented or lacks available combustion air
  - A non-vented space heater is present
- Safety devices on a fuel-fired space heater are missing or damaged
- The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas

- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit
- The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

If the owner fails to correct the life-threatening condition, the HAP will be abated and/or the HAP contract will be terminated. See 8.B. If the family is responsible and fails to correct the life-threatening condition, OCHA may impose penalties up to termination.

### **OWNER AND FAMILY RESPONSIBILITIES**

According to 24 CFR 982.404, the owner is responsible for all HQS violations except for those which the family are responsible for, which are:

- Keeping tenant-paid utilities in service
- Maintaining appliances owned by the family
- Preventing damage to the unit or premises beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

### **SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL**

According to 24 CFR 35.1225, FR Notice 1/13/17 and PIH Notice 2017-13, the PHA must develop a policy around children with elevated blood lead level.

#### **OCHA Policy**

If OCHA is notified that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, OCHA will initiate contact with the Orange County Health Department within two (2) days to complete an environmental investigation of the dwelling unit as soon as possible. The result of the environmental investigation must be immediately provided to the owner of the dwelling unit.

Within thirty (30) days after receiving the environmental investigation report, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and



35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8.B.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

### **VIOLATION OF HQS SPACE STANDARDS**

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms. [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these HQS space standards is defined as **overcrowded**.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

## B. THE INSPECTION PROCESS

### OVERVIEW

#### Types of Inspections

According to 24 CFR 982.405, the PHA conducts the following types of inspections as needed:

- **Initial Inspections.** The PHA conducts initial inspections to approve a unit for participation in the HCV program.
- **Annual/Biennial Inspections.** HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- **Special Inspections.** A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- **Quality Control Inspections.** HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

#### Inspection of PHA-Owned Units

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government). [24 CFR 982.352(b)]

#### Inspection Costs

Per PIH Notice 2016-05, the PHA may not charge the family for unit inspections or re-inspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for re-inspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency



has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a re-inspection.

The owner may not pass the cost of a re-inspection fee to the family. Re-inspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

#### OCHA Policy

OCHA will not charge a fee for failed re-inspections.

#### Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

#### OCHA Policy

OCHA will give both the family and the owner as much notice as possible for routine inspections, and not less than 48 hours notice.

Inspections may be scheduled between 8:00 a.m. and 4:00 p.m.; however, they may actually be performed later in the day due to unforeseen circumstances. Generally inspections are conducted on business days only.

In the case of a life-threatening emergency, OCHA will give as much notice as possible, given the nature of the emergency.

#### Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

## OCHA Policy

- Initial Inspections: For initial inspections of a vacant unit, OCHA will inspect the unit in the presence of the owner or their representative. The presence of a family representative is permitted, but not required. If the owner or their representative gives permission to inspect the unit in their absence, OCHA may do so.
- All Other Inspections: As per the family obligations, OCHA requires an adult family member to be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required. If the tenant gives permission to inspect the unit in their absence, OCHA may do so.

## INITIAL HQS INSPECTION

### Initial Inspections

According to 24 CFR 982.401(a) and FR Notice 1/18/17, the PHA may approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

HUD requires all units to pass an HQS inspection prior to participating in the HCV Program. The effective date of the lease and HAP contract may be the same day the unit passes the HQS inspection, but **not before the unit passes inspection**. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

### Inspection Results and Re-inspections

#### OCHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a timeframe to correct them. If requested by the owner, the timeframe for correcting the deficiencies may be extended by OCHA. OCHA will re-inspect the unit within five (5) calendar days of the date the owner notifies OCHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any OCHA-approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, OCHA may notify the owner and the family

that the unit has been rejected and that the family must search for another unit. OCHA may agree to conduct a second re-inspection at the request of the family and owner.

### Utilities

At initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

### Appliances

#### OCHA Policy

If the family is responsible for supplying the stove and/or refrigerator, OCHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by OCHA. OCHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A Quality Control inspection will be scheduled within thirty (30) days of HAP contract effective date.

## ANNUAL/BIENNIAL HQS INSPECTIONS

The following information is taken from 24 CFR 982.405, 24 CFR 982.406 and PIH Notice 2016-05.

#### OCHA Policy

- Each unit under HAP contract may be inspected within eighteen (18) months of the last full HQS inspection but no more than twenty four (24) months.
- The PHA may rely on alternative inspection standards.
- OCHA will conduct biennial inspections for all units except for VASH participants, if applicable. An inspection must be conducted for each unit under HAP contract no more than 24 months after the most previous inspection.

## SPECIAL INSPECTIONS

24 CFR 982.405(g) states: "If a participant family or government official reports a condition that is life-threatening (i.e., the PHA would require the owner to make the repair within no more than 24 hours in accordance with § 982.404(a)(3)), then the PHA must inspect the housing unit within 24 hours of when the PHA received the notification. If the reported condition is not life-threatening (i.e., the PHA would require the owner to make the repair within no more than 30 calendar days in accordance with § 982.404(a)(3)), then the PHA must inspect the unit within 15 days of when the PHA received

the notification. In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.”

## QUALITY CONTROL INSPECTIONS

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS. [24 CFR 982.405(B); HCV GB, P. 10-32]

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, biennial, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

## INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

### Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

#### OCHA Policy

OCHA will identify any HQS deficiencies and mail the owner and family a *Notice of HQS Inspection Results Form* which will identify:

- Life-threatening deficiencies: These violations are not eligible for self-certification and must be resolved within 24 hours.
- Non-life-threatening deficiencies. These violations may be corrected by self-certifying that repairs have been made.
- If the family or owner is responsible for making the repairs; and
- The deadline for completing the repairs.

Inspection results will also be provided via email, mail and/or web portal (available within 24-48 hours of completed inspection), or within five (5) calendar days of the inspection.

If life-threatening conditions are identified, OCHA will also immediately notify both parties by telephone.

## Correcting Deficiencies by Self-Certifying Repairs

### OCHA Policy

Depending on the nature of the deficiencies, owners and participants may self-certify that repairs as opposed to OCHA conducting a re-inspection.

### Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

### OCHA Policy

The length of the extension will be determined on a case-by-case basis, usually not to exceed sixty (60) days. Families may be granted extensions to restore service for utilities that failed inspection due to lack of service.

## OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

### HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate HAP no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family’s responsibility.

### OCHA Policy

Upon completion of repairs, the owner must contact OCHA to schedule a re-inspection. HAP will resume effective the date the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.



## HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

### OCHA Policy

The abatement period will continue for up to six (6) months, depending on each case, before the HAP contract is terminated. OCHA will consider exceptions according to participant need. OCHA may rescind the termination notice if the unit passes inspection, and if the participant still resides in the unit and wishes to remain in the unit.

## FAMILY COMPLIANCE

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12. [24 CFR 982.404(b)]

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

## C. RENT REASONABLENESS

### OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program. [24 CFR 982.507]

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

### PHA-Owned Units

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government). [24 CFR 982.352(b)]

### WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

#### Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

## OCHA Policy

OCHA will determine whether the requested rent increase is reasonable within thirty (30) calendar days of receiving the request from the owner. OCHA will notify the owner of the determination on rent reasonableness and affordability in writing.

Rent increases are typically tied to participant recertifications and take effect the same month as the participant's anniversary date. Increase requests made within the six (6) months following a recertification will take effect thirty (30) days following OCHA's approval.

## PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

## LIHTC- and HOME-Assisted Units

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance. [24 CFR 982.507(c)]

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

## HOW COMPARABILITY IS ESTABLISHED

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)

- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

## Units that Must Not Be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d) (3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent- controlled by local ordinance. (PIH Notice 2011-46)

## Rents Charged for Other Units on the Premises

The RFTA requires owners to provide information about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

## PHA RENT REASONABLENESS METHODOLOGY

### How Market Data Is Collected

#### OCHA Policy

OCHA collects and maintains data on market rents in and around Orange County, NC. OCHA is currently contracting with GoSection8.com to collect data and determine rent reasonableness.