

5806 VIOLATION OF OWNER RESPONSIBILITIES

5806.1 If an Owner fails to honor his or her responsibilities under the rules of the Program, after being provided notice and an opportunity to address the issue, DCHA may terminate the HAP contract and require the Family to move. The basic Owner responsibilities in the HCVP are outlined in the regulations as follows:

- (a) Performing all of the Owner's obligations under the HAP contract and the lease;
- (b) Complying with DCHA's policies in accordance with the Administrative Plan;
- (c) Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the Family is suitable for tenancy of the unit;
- (d) Maintaining the unit in accordance with the HQS, including performance of ordinary and extraordinary maintenance;
- (e) Complying with equal opportunity requirements;
- (f) Preparing and furnishing to DCHA information required under the HAP contract;
- (g) Collecting from the Family any security deposit, the TTP, and any charges for unit damage by the Family;
- (h) Enforcing tenant obligations under the dwelling lease;
- (i) Paying for utilities and services (unless paid by the Family under the lease);
- (j) Making modifications to a dwelling unit occupied or to be occupied by a person with a disability;
- (k) Complying with the VAWA and D.C. Official Code §§ 2-1401, *et seq.* when screening and terminating tenants;
- (l) Being in good standing as a participating Owner by HUD;
- (m) Leasing to relatives is prohibited except as a reasonable accommodation, approved by DCHA;
- (n) Not having a prohibited conflict of interest; and

District of Columbia Municipal Regulations

- (o) Not discriminating against any person under any protected grounds as enumerated in D.C. Official Code §§ 2-1401.01, *et seq.* (2007 Repl. & 2011 Supp.) in connection with any actions or responsibilities under the HCVP and the HAP contract and shall cooperate with DCHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCVP and the HAP Contract.

5806.2 DCHA may disapprove a Request for Tenancy or may cancel existing HAP Contracts if the Owner has committed any of a number of actions as enumerated by HUD guidelines. If DCHA disapproves a Request for Tenancy Approval (RTA) from a particular Owner, it may not terminate the HAP contract for any assisted families that are already living in the Owner's properties unless the Owner has violated the HAP contract for those households.

5806.3 DCHA may disapprove a Request for Tenancy or terminate an existing HAP Contract if DCHA becomes aware that any of the following are true:

- (a) The Owner has violated obligations under a HAP contract under Section 8 of the United States Housing Act of 1937;
- (b) The Owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program, including requesting "side payments" of additional rent from the tenant; or
- (c) The Owner has engaged in any drug-related criminal activity or any violent criminal activity.

5806.4 DCHA may refuse to enter into new HAP contracts with Owners in the following circumstances:

- (a) The Owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal or local housing program;
- (b) The Owner has a history or practice of failing to terminate the tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest, or another person under the control of any member of the household that:
 - (1) Threatens the right to peaceful enjoyment of the premises by other residents;

District of Columbia Municipal Regulations

- (2) Threatens the health or safety of other residents, of employees or agents or contractors of DCHA, or of Owner employees or other persons engaged in management of the housing;
- (3) Threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or
- (4) Commits drug-related criminal activity or violent criminal activity;
- (c) The Owner has a history or practice of renting units that fail to meet state or local housing codes, including to make repairs on units under abatement within the sixty (60) day required period;
- (d) The Owner has a history of failure to comply with VAWA, the ADA, the Fair Housing Act or the D.C. Human Rights Act;
- (e) The Owner has not paid state or local real estate taxes, fines, or assessment; or
- (f) The Owner is not properly registered with the District of Columbia Department of Housing and Community Development.

5806.5 In considering whether to disapprove Owners for any of the discretionary reasons listed above, DCHA shall consider any mitigating factors. Such factors may include, but are not limited to:

- (a) The seriousness of the violation in relation to program requirements;
- (b) The impact on the ability of families to lease units under the Program; or
- (c) The health and safety of participating families.

5806.6 Upon consideration of the circumstances in § 5906.4, DCHA may, on a case-by-case basis, choose to approve an Owner.

5806.7 It is the responsibility of the Owner to report to DHCA within ten (10) days, any known circumstances where a tenant is deceased or has permanently vacated a unit. In accordance with the HAP contract, the Owner is not entitled to HAP for any period that the Family does not occupy the unit. Thus, it is the Owner's responsibility to return any payments of HAP received for periods when he or she knew that the household was no longer occupying the unit.

District of Columbia Municipal Regulations

- 5806.8 In instances where the Owner does not voluntarily report that a unit has been vacated or that the sole Family member is deceased, DCHA shall seek to recoup overpayments in accordance with chapter 55 of this title of the DCMR.
- 5806.9 DCHA shall seek to recover HAP for any period that the Owner knew, or reasonably should have known, that the Family no longer occupied the unit or was deceased. Information regarding the Owner's knowledge could include, but is not limited to:
- (a) Information from utility companies that utilities have been placed in the Owner's name;
 - (b) Returned mail with a forwarding address;
 - (c) Inspection letters from DCHA or another entity that indicate that the unit is vacant;
 - (d) Information from the Owner indicating that the Family has returned the keys; or
 - (e) The submission of a RTA for another subsidized Family at the same address.
- 5806.10 DCHA shall not seek to recover funds for periods where the Owner had no knowledge of the deceased Family member. In instances where the Family has moved without notice, the Family shall be held liable for overpayments of HAP during periods prior to when the Owner had knowledge of the move.

SOURCE: Final Rulemaking published at 59 DCR 7942 (June 29, 2012); as amended by Final Rulemaking published at 59 DCR 11006 (September 21, 2012).