

**2217 RESPONSIBILITIES OF RENTAL INCLUSIONARY DEVELOPMENT OWNERS AND TENANTS**

2217.1 No later than sixty (60) days before each anniversary of the first day of the lease, an Eligible Household leasing a Rental Inclusionary Unit shall submit to the Inclusionary Development Owner the following information and documents on or with such form as may be prescribed by DHCD:

- (a) A statement as to whether the Tenant intends to renew the lease or vacate the Inclusionary Unit; and
- (b) If the Tenant states that he or she intends to renew the lease:
  - (1) The names and ages of each person residing in the unit;
  - (2) A Certification of Income, Affordability, and Housing Size that meets the requirements of § 2214.3; and
  - (3) A Declaration of Eligibility that meets the requirements of § 2214.2.

2217.2 The Owner may, in the Owner's discretion, extend the deadline established by § 2217.1 in writing provided that the deadline shall not be extended beyond the last day of the Tenant's lease.

2217.3 If a Tenant is in violation of a lease agreement or rider, the Inclusionary Development Owner may provide to the Tenant a notice to vacate in accordance with D.C. Official Code § 42-3505.01(b), as may be amended.

2217.4 If a notice to vacate is provided pursuant to § 2217.3, the Inclusionary Development Owner may permit the Household to continue to occupy the unit at the current rent for no more than six (6) months after the Inclusionary Development Owner provides to the Tenant the notice to vacate. Acceptance of rent during this period will not constitute a waiver of the violation of the lease or another obligation of tenancy or void the notice to vacate.

2217.5 The Inclusionary Development Owner shall not require payment of rent that is greater than the maximum allowable rent determined in accordance with §§ 2207.2 and 2207.4.

2217.6 At annual recertification, if an Eligible Household's Annual Income is less than or equal to one hundred forty percent (140%) of the higher of

- (a) The then-current maximum Annual Income; or
- (b) The maximum Annual Income at the time of initial lease execution

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for the Inclusionary Unit, the Eligible Household shall be considered income eligible and may remain in the Inclusionary Unit, continuing to pay the amount of rent associated with the MFI Level of that Inclusionary Unit.

- 2217.7 At annual recertification, if an Eligible Household's Annual Income is greater than one hundred forty percent (140%) of the higher of
- (a) The then-current maximum Annual Income; or
  - (b) The maximum Annual Income at the time of initial lease execution for the Inclusionary Unit, the Household is no longer income eligible for the original MFI Level of the Inclusionary Unit.
- 2217.8 If a Household is no longer income eligible for the original MFI Level of the Inclusionary Unit, as described in § 2217.7, and the Inclusionary Development has Inclusionary Units with higher MFI Levels, and if the Household would qualify for such higher MFI Level Inclusionary Unit, the existing Inclusionary Unit may be re-designated as a higher MFI Level Inclusionary Unit, allowing the Household to remain in the same Inclusionary Unit. However, the original mix of MFI Levels must be restored within the Inclusionary Development as soon as possible, so the property manager should re-designate a new unit with the same number of Bedrooms to replace the lower MFI Level Inclusionary Unit that was re-designated when one becomes available. The property manager or Inclusionary Development Owner must notify DHCD in writing that a re-designation is necessary as soon as it is determined and identify the unit to be re-designated.
- 2217.9 If a Household is no longer income eligible for the original MFI Level of the Inclusionary Unit, as described in § 2217.7, and the Inclusionary Development does not have Inclusionary Units with higher MFI Levels for which the Household qualifies, the Household may remain in the Inclusionary Unit if the Household agrees to pay market rate rent. In such case, the Inclusionary Unit may be re-designated as a Market Rate Unit, allowing the Household to remain in the same unit. However, the original mix of MFI Levels must be restored within the Inclusionary Development as soon as possible, so the property manager should re-designate a new unit with the same number of Bedrooms to replace the Inclusionary Unit that was re-designated when one becomes available. The property manager or Inclusionary Development Owner must notify DHCD in writing that a re-designation is necessary as soon as it is determined and identify the unit to be re-designated.
- 2217.10 Annually within fifteen (15) days after the anniversary of the first lease agreement for an Inclusionary Unit in a Rental Inclusionary Development, the Inclusionary Development Owner shall submit a report to DHCD setting forth the following information for the entire Rental Inclusionary Development:

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- (a) The number of Rental Inclusionary Units, by Bedroom count, that are occupied;
- (b) The number of Rental Inclusionary Units, by Bedroom count, that were vacated during the previous twelve (12) months;
- (c) For each Rental Inclusionary Unit vacated during the previous twelve (12) months, the unit number of the unit that was vacated, the number of days the unit was vacant (or a statement that the unit is still vacant), and the date on which a Notice of Availability was provided to DHCD pursuant to § 2206, if applicable;
- (d) For each occupied Rental Inclusionary Unit, the names of all occupants, whether each occupant is over or under the age of eighteen (18), the Household size, and the Household's Annual Income as of the date of the most recent Certification of Income, Affordability, and Housing Size;
- (e) A sworn statement that to the best of the Inclusionary Development Owner's information and knowledge, the Annual Income of each Eligible Household occupying each Rental Inclusionary Unit complies with the income limits applicable to the Rental Inclusionary Unit;
- (f) A copy of each new and revised Certification of Income, Affordability, and Housing Size provided in accordance with § 2214.3 or § 2217.1;
- (g) A copy of each new and revised Declaration of Eligibility provided in accordance with § 2214.2 or § 2217.1;
- (h) A copy of each lease signed in the preceding year;
- (i) A certification that for each Rental Inclusionary Unit that became available over the course of the reporting year Households were selected to occupy the Rental Inclusionary Units pursuant to a lottery or the approved marketing plan; and
- (j) Which, if any, units were re-designated and to which MFI level or to market rate.

SOURCE: Notice of Final Rulemaking published at 56 DCR 3907 (May 15, 2009); as amended by Final Rulemaking published at 56 DCR 9295, 9296 (December 11, 2009); as amended by Final Rulemaking published at 64 DCR 13582 (December 29, 2017).