

## Chapter 5

### OCCUPANCY STANDARDS AND UNIT OFFERS

#### INTRODUCTION

The PHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The PHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the PHA's standards for determining the appropriate unit size for families of different sizes and types.

Part II: Unit Offers. This part contains the PHA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

#### PART I: OCCUPANCY STANDARDS

##### 5-I.A. OVERVIEW

Occupancy standards are established by the PHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the PHA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

## **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

### **Types of Exceptions**

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority will consider granting exceptions to the occupancy standards at the family's request if the City of Las Vegas Housing Authority determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests the City of Las Vegas Housing Authority will consider the size and configuration of the unit. In no case will the City of Las Vegas Housing Authority grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the City of Las Vegas Housing Authority may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

### **Processing of Exceptions**

#### City of Las Vegas Housing Authority Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the City of Las Vegas Housing Authority will encourage the resident to make the request in writing. However, the City of Las Vegas Housing Authority will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

**5-I.B. DETERMINING UNIT SIZE**

In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. PHAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the PHA does determine the size of unit the family qualifies for under the occupancy standards, the PHA does not determine who shares a bedroom/sleeping room.

The PHA’s occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority will use the same occupancy standards for each of its developments.

The City of Las Vegas Housing Authority’s occupancy standards are as follows:

The City of Las Vegas Housing Authority will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 4) will not be required to share a bedroom.

Single mothers with a child under the age of 4

Persons of different generations will not be required to share a bedroom.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide’s family.

Single person families will be allocated a zero or one bedroom.

Foster children will be included in determining unit size.

The City of Las Vegas Housing Authority will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10
6	8	12

The City of Las Vegas Housing Authority will notify the family of its decision within 10 calendar days of receiving the family's request. The family will be placed on a unit transfer list until such time as a unit becomes available.

## **PART II: UNIT OFFERS**

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

### **5-II.A. OVERVIEW**

The PHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination.

In filling an actual or expected vacancy, the PHA must offer the dwelling unit to an applicant in the appropriate sequence. The PHA will offer the unit until it is accepted. This section describes the PHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the PHA's policies for offering units with accessibility features.

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection. This information will be maintained on the record sheet of the application.

### **5-II.B. NUMBER OF OFFERS**

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority has adopted the following plan for offering units to applicants.

- The City of Las Vegas Housing Authority will offer units based on the availability within its four housing sites.
- Applicants have the option of refusing a unit within a particular site.
- Applicants cannot exceed two refusals. In the event the applicant refuses two units, they must re-apply with the City of Las Vegas Housing Authority in order to remain on the waiting list.
- If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

## 5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

### City of Las Vegas Housing Authority

Applicants must accept or refuse a unit offer within 3 calendar days of the date of the unit offer. Refusal of the unit may be received by telephone but must be confirmed in writing. If the refusal is not the second refusal made by the applicant, a request to remain on the waiting list must be confirmed in writing. Upon receipt of the written request to remain on the waiting list, the applicant will be updated with a new date and time.

Offers will be made by telephone and/or letter.

## 5-II.D. REFUSALS OF UNIT OFFERS

### **Good Cause for Unit Refusal**

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

### City of Las Vegas Housing Authority Policy

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the City of Las Vegas Housing Authority's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The City of Las Vegas Housing Authority will require documentation of good cause for unit refusals.

### **Unit Refusal**

#### City of Las Vegas Housing Authority

When an applicant rejects the final unit offer, the City of Las Vegas Housing Authority will remove the applicant's name from the waiting list.

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the City of Las Vegas Housing Authority opens the waiting list.

### **5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]**

PHAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the PHA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the PHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the PHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

#### City of Las Vegas Housing Authority Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the City of Las Vegas Housing Authority will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the City of Las Vegas Housing Authority will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

### **5-II.F. DESIGNATED HOUSING**

When applicable, the PHA's policies for offering units designated for elderly families only or for disabled families only are described in the PHA's Designated Housing Plan.