

Following the rules: Recertification and HUD housing

It's critical that
tenants know their
rights and
responsibilities.



By Tim Kozlowski, staff attorney

More than [four million low-income American families](#) access safe, stable, and affordable housing through the Department of Housing and Urban Development. Commonly referred to as HUD, this government agency was created by President Lyndon B. Johnson during the “War on Poverty” in the 1960s.

Low-income families can receive HUD assistance through public housing authorities or private owners of multifamily housing. Public housing authorities operate housing in all sizes and types, from scattered single family houses to highrise apartments. Public housing authorities also administer the popular Section 8 Housing Choice Voucher Program, where eligible low income families can choose to have a rent subsidy paid on a residence in the private market. Private owners of multifamily

housing assist low income families through loans, loan guarantees, and grants that enable the owner to develop or rehabilitate properties.

HUD plays an enormously important role in creating and sustaining housing stability for low-income Americans - and especially those who face intersecting systemic inequities. [In Ohio, around 60% of those accessing HUD's array of housing assistance programs are people of color and 57% have a head of household who is Black.](#) Average annual income is \$12,876. Around 45% of households include an individual with a disability and around 40% are female headed households with children.

But HUD-housing is not without its complications. There are a myriad of requirements placed upon the tenant by the federal government and the rental agreement itself. With safe and secure housing so central to individual and family wellbeing, tenants must understand their rights and responsibilities to avoid pitfalls that could potentially lead to homelessness.

A prime example of the potential complications within HUD housing can be found in a process called "recertification." In short, recertification is a time to recheck all the income and family composition boxes and ensure that tenants still qualify for HUD assistance. Recertification is required regularly (usually annually) and often upon changes in income. The property owner, which can be a public housing authority or a private company, and tenants both have roles in the recertification process.

Annually, the property owner reviews household composition, income, assets, and certain expenses. A tenant may have to provide documentation, and all adults in the household will have to sign the recertification documents. Interim recertifications are usually required when households experience an increase in income over a certain threshold, and are optional for the tenant in a situation where there is an income decrease. The amount of rent the tenant must pay is recalculated based on all the information gathered in the recertification process.

Many things can go wrong in the recertification process, and missed deadlines are common.

We see tenants failing to timely complete their annual recertifications. If a tenant does not timely complete the recertification process, rent will typically increase to market value or they may even be at risk of eviction. Either of these outcomes can be devastating for low-income families, starting a domino effect that can throw off family well-being for months or even years. Often, a tenant's failure to recertify is related to personal hardship, circumstances beyond their control, or just being intimidated by the process itself. Tenant families may be facing domestic violence, language barriers, food insecurity, and other challenges.

When tenants make mistakes and omissions related to recertification, advocates often turn to HUD's "Directives System" created to provide instructions, procedures and guidance to HUD housing program participants. HUD Guidebooks and Handbooks are an important part of the system, and detail what property owners of multifamily housing are required to do to facilitate the completion of the recertification process as required by existing regulations. These Guidebooks and Handbooks illustrate the details that must be contained in the multiple recertification notices issued to tenants, and confirm how a landlord must consider "extenuating circumstances" that a tenant may have presented before increasing the rent to market rate. The existence of the HUD Guidebooks and Handbooks illustrate the complexity of what tenants must navigate to maintain their housing, while sending a clear message as to the importance of protecting housing at every layer of the process. Even when deadlines are missed, there may still be hope for a positive outcome.

On the other side, we also see property owners not meeting their obligations in completing annual recertifications. These situations are particularly troubling to advocates, as the landlord-tenant power dynamic can create a perfect storm for low-income families. Landlords are required to absorb any loss of subsidy on the unit for

a period caused by landlord non-compliance. However, landlords may try to wrongfully pass along any increases in rent resulting from this error to the tenant. Tenants may not know the rules and fall victim to the unfair demands of the property owner. Even when tenants do know the rules, they may not complain because they have nowhere else to go and are afraid to make waves and lose their home. This may result in long-term impact on their ability to afford housing.

Regardless of who is in the wrong, [all individuals and families living in HUD housing have the right to challenge the calculation of rent. Many subsidized housing residents also have rights related to](#) prompt consideration of complaints and requests; the filing complaints without retaliation, harassment, or intimidation; and appealing landlord decisions. Community education on these points is critical so tenants know their rights and responsibilities and, when necessary, are empowered to communicate and question their landlords openly and without fear.

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