

RESOLUTION 19-14

To Adopt Final Regulations to Amend Regulations Implementing HUD Requirements Regarding Over-Income Households

Summary

The purpose of this memorandum is to request approval to publish final regulations for implementing new U.S. Department of Housing and Urban Development (“HUD”) requirements for an over-income policy for Public Housing households. The regulations include adding a definition of over-income, and describing how the over-income limit would be applied to public housing households.

RESOLUTION 19-14

TO ADOPT FINAL REGULATIONS TO AMEND REGULATIONS IMPLEMENTING HUD REQUIREMENTS REGARDING OVER-INCOME HOUSEHOLDS

WHEREAS, the Housing Opportunity Through Modernization Act of 2018 (HOTMA) was signed into law on July 29, 2016.

WHEREAS, one of the statutory amendments made by HOTMA adds an income limit to the Public Housing program;

WHEREAS, HUD's implementation of this requirement is described in the Federal Register, Vol. 83 pp. 35490 – 35494 and requires all public housing authorities to update agency program policies, also referred to as the Admissions and Continued Occupancy Policy (ACOP), which is codified in the District of Columbia Municipal Regulations (DCMR);

WHEREAS, under the new rule, Public Housing households with adjusted household income exceeding 120% of area median income (AMI) for two (2) consecutive years are considered over-income and, after a grace period, have to pay a higher rent;

WHEREAS, the new rent for public housing households who are considered over income will be determined as the greater of: 1) HUD's Fair Market Rent or 2) a calculation of the unit subsidy received from HUD (to be determined by HUD);

WHEREAS, DCHA provided a copy of the proposed regulations before publication for the 30-day public comment period to the Legal Services Provider community and received comments via teleconference on February 5, 2019 and in writing;

WHEREAS, DCHA revised the proposed regulations based on comments from the Legal Services Provider community before publishing the proposed regulations for the 30-day comment period;

WHEREAS, the proposed regulations, inclusive of Legal Service Provider comments were published in the DCMR on March 15, 2019 for a 30-day public comment period;

WHEREAS, DCHA met with Public Housing residents prior to publication of the proposed regulations and during the 30-day comment period to inform them of the proposed policy change, including the provision of a written summary of the policy change; and

WHEREAS, there were no comments received on the proposed regulations during the 30-day public comment period.

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**TO ADOPT FINAL REGULATIONS TO AMEND
REGULATIONS IMPLEMENTING HUD
REQUIREMENTS REGARDING OVER-INCOME HOUSEHOLDS**

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of District of Columbia Housing Authority that that proposed amendments to the following sections of Title 14 of the District of Columbia Municipal Regulations: Chapter 60 (Low Rent Housing: Definitions) and Chapter 61 (Public Housing: Admission and Recertification), in compliance with the HUD new public housing over-income rule, be adopted as Final Regulations.

ADOPTED by the Board of Commissioners and signed in authentication of its passage, the 8th day of May 2019.

ATTEST:

APPROVAL:

Tyrone Garrett
Executive Director/Secretary

Neil Albert
Chairman

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Kenneth S. Slaughter
General Counsel

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

Over-Income Households in Public Housing

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2018 Repl.)), hereby gives notice of its intent to adopt the following amendments to Chapter 60 (Low Rent Housing: General Provisions) and Chapter 61 (Public Housing: Admission and Recertification) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR) as final.

The purpose of the proposed amendments is to implement HUD requirements for over-income households in public housing, required by the Housing Opportunity Through Modernization Act of 2018 (HOTMA), signed into law on July 29, 2016, and HUD's implementation of this portion of the law as described in the *Federal Register*, Vol. 83 pp. 35490- 35494.

The proposed regulations were published in the D.C. Register on March 15, 2019, at 66 DCR 003080. This rulemaking was adopted as final at the Board of Commissioners regular meeting on May 8, 2018. The final rules will become effective upon publication of this Notice in the D.C. Register.

Chapter 60, LOW RENT HOUSING: GENERAL PROVISIONS, of Title 14 DCMR, HOUSING, is amended as follows:

Section 6099, DEFINITIONS, Subsection 6099.1, is amended by adding the following definition:

Over-income limit –One hundred twenty percent (120%) of Area Median Income, which is calculated by multiplying the Very Low-Income limit by a factor of 2.4. This limit may be adjusted by HUD, and the calculation should be based upon HUD regulations in effect at the time that household income is evaluated by DCHA.

Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION, is amended as follows:

Section 6118, RECERTIFICATION, is amended by adding a new Subsection 6118.4:

6118.4 DCHA will evaluate annually whether household income exceeds the over-income limit. If a family's adjusted household income is determined to exceed the over-income limit, DCHA will evaluate the family's adjusted household income one year later. DCHA will provide written notice to the household that it is subject to rent equal to the greater of (a) the applicable Fair Market Rent or (b)

the amount of monthly subsidy for the unit including amounts from the operating and capital fund, as determined by HUD regulations after twenty-four (24) consecutive months of over-income status. Households will receive notice that it may be subject to the over-income rule after an initial determination that the household is over-income. If a household does not remain over-income for a consecutive 24-month period, the household is not subject to a higher rent.