

HOUSING AUTHORITY OF THE CITY OF BAYONNE

DRUG ABUSE AND OTHER CRIMINAL ACTIVITY POLICY

A. APPLICANT CONDUCT

1. Any applicant for admission to Public Housing, in accordance with the Housing Opportunity Program Extension Act, that has been evicted from Public Housing or any Section 8 Rental Assistance Programs for drug-related criminal activity is ineligible for admission to any Public Housing and Section 8 Rental Assistance Programs for a (3) three-year period, beginning from the date of eviction. The evicted family becomes eligible for readmission, however, if the individual who engaged in the activity has successfully completed a rehabilitation program approved by the Housing Authority of the City of Bayonne (the "Authority") or if the Authority determines that the circumstances leading to the eviction no longer exist.
2. Any sex offenders who are subject to a lifetime registration requirement under a State Sex Offenders' Registration Program will be denied admission permanently to Public Housing or any Section 8 Rental Assistance Programs.
3. Any persons convicted of manufacturing or producing methamphetamine are ineligible permanently for admission to Public Housing and any other Section 8 assisted housing.
4. The Authority may prohibit admission of a household to federally-assisted housing if it has been determined that any household member is currently engaging in, or has engaged in:
 - a. Drug related criminal activity;
 - b. Violent criminal activity (defined as any criminal activity that has one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause or be reasonably likely to cause serious bodily injury or property damage;
 - c. Other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or
 - d. Other criminal activity that would threaten the health or safety of any Authority employee, contractor, subcontractor or agent of the Authority.

B. TENANT CONDUCT

1. Any criminal activity, on or off the Authority's premises, that threatens the health, safety or right to peaceful enjoyment of the premises by other tenants or Authority employees is cause for eviction. Premises is defined as the building or complex or development in which the public or assisted housing dwelling unit is located including common areas and grounds.
2. Any drug related criminal activity, is cause for eviction, whether on or off the Authority's premises, or any activity by a tenant in which the Authority determines that a tenant is illegally using a controlled substance is cause for eviction.
3. A tenancy may be terminated and the household evicted when a covered person engages in any criminal activity described above. A "covered person" is an umbrella term including, in addition to the tenant, guests, members of the tenant's household and other persons under the tenant's control. In this context, a "guest" means anyone staying in the unit with the permission of the tenant or another household member with the authority to give such permission. "Other persons under tenant's control" means a short term invitee who is not "staying" in the unit. Such a person is only under the tenant's control during the period of invitation and the person is on the premises because of that invitation.
4. In accordance with P.L. 104-120, the Authority prohibits continued occupancy in any public housing dwelling unit for any person whom the Authority determines is illegally using a controlled substance. The Authority shall terminate the tenancy of any low-income tenant:
 - a. Who is determined to be illegally using a controlled substance;
 - b. Who abuses alcohol (or engages in a pattern of abuse) or a controlled substance (or engages in illegal use or pattern of illegal use) when the Authority reasonably believes such use or pattern of abuse, may interfere with the health, safety or right to peaceful enjoyment of the Authority's public housing premises by other tenants or employees of the Authority;
 - c. Who willfully allows the leased unit to be used to store, manufacture, distribute or facilitate the use of illegal narcotics;
 - d. Who is convicted of producing methamphetamine in a building or complex assisted under the Public Housing or any Section 8 Rental Assistance Program and administered by the Authority;
 - e. Any public housing tenant or any Section 8 housing recipient who is fleeing to avoid prosecution or custody or confinement after conviction, for a felony (or a high misdemeanor in New Jersey); or

B. TENANT CONDUCT (Continued)

- f. Any public housing tenant or any Section 8 housing recipient who is violating a condition of probation or parole imposed under federal or state law;
 - g. The Authority will provide to federal, state or local law enforcement officials information concerning assisted recipients whom the officials are pursuing for violating parole or fleeing to avoid prosecution.
- 5. All tenants must assure that the tenant, any member of the tenant's "household" (household is defined as the family and Authority approved live-in-aide if applicable) guest or other person(s) under the tenant's control which means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises shall:
 - a. Not engage in any criminal activity, on or off the Authority's premises, that threatens the health, safety or right to peaceful enjoyment of the premises by other tenants or Authority employees. Premises is defined as the building or complex or development in which the public or assisted housing dwelling unit is located including common areas and grounds;
 - b. Not engage in any drug-related criminal activity, (drug-related criminal activity means the illegal manufacture, sale, distribution or lease of a drug or the possession of a drug with intent to manufacture, sell, distribute or use the drug) is cause for eviction, whether on or off the Authority's premises, or any activity by a tenant in which the Authority determines that a tenant is illegally using a controlled substance is cause for eviction;
 - c. Not abuse alcohol (or engage in a pattern of abuse) or a controlled substance (or engage in illegal use or pattern of illegal use) when the Authority reasonably believes such use or pattern of abuse, may interfere with the health, safety or right to peaceful enjoyment of the Authority's public housing premises by other tenants or employees of the Authority;
 - d. Not display, use, or possess or allow members of tenant's household or other covered persons, to display, use or possess any firearms illegally, (operable or inoperable) or other offensive weapons as defined by the laws and courts of the State of New Jersey anywhere on the property of the Authority.

C. AUTHORITY EVICTIONS

- 1. Drug-related or criminal activity, in violation of the lease provision, will be treated as a serious violation of the material terms of the lease. The Authority will seek eviction, under appropriate laws and statutes, of any tenant determined to be in violation of the material terms of the lease.

C. AUTHORITY EVICTIONS (Continued)

2. Under terms of federal law, state law and the lease, the Authority may evict the tenant by judicial action for criminal activity if the Authority determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.
3. The Authority may not evict on the basis of suspicion or rumor. The Authority must prove in court that a tenant has violated the lease.
4. Upon entering into the lease agreement, tenants promise to abide by its terms. Tenants have an affirmative obligation to assure that neither they nor any member of their household or guest or anyone else under their control, by virtue of having been invited to the premises, will engage in prohibited drug or other criminal activities. The Authority may evict the entire household when household member or guest commits a crime in violation of the lease provisions. The tenant has promised in the lease to ensure a crime free household. The tenant is responsible for the household.
5. If the Authority seeks to terminate the tenancy for criminal activity, as shown by a criminal record, the Authority shall provide the subject of an accessed criminal record and the applicant or tenant a copy of the record and an opportunity to dispute the accuracy and relevance of information. This opportunity must be provided before the denial of admission, eviction or lease enforcement action on the basis of such information.

The Authority will handle all the above noted eviction cases on an individual basis. These provisions, known as the Drug Abuse and Other Criminal Activity provisions, will be implemented and enforced even handedly. Similar lease violations in similar circumstances will result in similar sanctions.

D. FACTORS CONSIDERED IN DETERMINING TO EVICT A HOUSEHOLD

1. The magnitude and seriousness of the offense. All drug offenses are serious and it is reasonable to have a strict policy which allocates relatively scarce affordable housing resources to those who abide by the rules and remain free of drug activity. However, a less serious, non-frequent indiscretion by a member of the household cannot be equated with the most serious offense *i.e.* performing as a drug merchant or committing of violent acts. The Authority will review closely, cases in which the offense is relatively less serious.
2. Authority intervention by staff who work with families on a voluntary basis. If the family is participating fully and, most importantly, making sufficient progress in a plan to correct a drug problem, such will be taken into account in determining whether to seek eviction.

D. FACTORS CONSIDERED IN DETERMINING TO EVICT A HOUSEHOLD
(Continued)

3. The knowledge and/or ability to know of the offense by the head of household. For example, consideration of sanctions, other than the eviction, might be made if the offense was committed by a household member, off the site and out of the control of the head of household.
4. Frequency of violations. If a family is cited by Management more than once for serious lease violations, repeated violations by the same family unit indicates a lack of ability or motivation to abide by the rules.

E. REHABILITATION OF ABUSE PROBLEMS

In determining whether to evict a resident based on a pattern of use of a controlled substance or a pattern of abuse of alcohol, the Authority may consider, if presented by the tenant, whether such person:

1. Has completed successfully a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);
3. Is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

F. ALTERNATE SANCTIONS

The sanctions other than eviction of the entire household which may be considered are Agreements made in court, on the court record in which the resident:

- a. Acknowledges the offense;
- b. Agrees to take action to ensure that the offense is not repeated, e.g., removed from the household of the offending member; and
- c. Consents to a judgment for possession which the Authority agrees not to execute for one (1) or more years unless the agreement to take action above is violated, e.g., the offending person returns as a tenant or guest of the household or there is another serious lease violation. The consent judgment will require only that the Authority prove violation of the agreement, not subsequent lease violations or criminal conduct.

F. ALTERNATE SANCTIONS (Continued)

In some cases, the Authority may require affidavits or agreements from tenants in lieu of termination of tenancy. In some minor cases, the Authority may issue a written warning in the form of a legal Notice to Cease.

Consideration of alternate sanctions will not be given if the criminal act is committed by the head of household or spouse while on the Authority's premises.

G. PROTECTING TENANT DUE PROCESS RIGHTS

1. Tenants shall be entitled to written notice of determination to terminate tenancy. In accordance with the notice provisions described in the dwelling lease, a reasonable time shall be not less than five (5) days or more than fourteen (14) days as determined by the urgency of the situation.
2. The Authority has a clear responsibility to protect the health and safety of all tenants and will take appropriate action to do so. Any pattern of violent or criminal activity will be construed to be a threat to the safety of other tenants.
3. After a notice of termination is issued, the tenant shall have the right to an hearing before the Executive Director or his designee. The tenant may be represented by an attorney or other party at this hearing. The Authority's counsel will attend normally and provide to the tenant a summary of the hearing and any determinations reached.
4. Prior to a hearing, the tenant will have a right to review any relevant document, regulations, or records directly related to the termination and eviction.
5. The policy will be posted in the Authority's main office. In turn, the Authority will make copies available upon request.

H. POST OFFICE NOTIFICATION

The Authority will notify the local "main" post office providing service to the unit when an individual or family is evicted for criminal activity. The intent is to prevent the return of the former tenant/s to the development to obtain mail.

I. BARRING FROM PREMISES

Any persons who have been evicted from the Authority for drug activity or other criminal activity shall be barred from coming onto any Authority property at any time for any reason. Should the remaining household members of the unit, from which the said person was evicted, permit said person to come onto Authority property, they too shall be subject to eviction.

Violations of this policy shall be considered to be a serious breach of the material terms of the Lease. A criminal conviction or arrest is not necessary for the Lease Agreement to be terminated and for eviction proceedings to be instituted. Criminal activity is cause for eviction without arrest or conviction.

I/we have received a copy of this Amended One Strike Policy and have had an opportunity to ask questions about the policy.

All adult (anyone 18 years of age or older) household members must sign below.

Tenant (Head of Household) Signature

Date

Tenant (18 years of age or older) Signature

Date

Tenant (18 years of age or older) Signature

Date

Tenant (18 years of age or older) Signature

Date

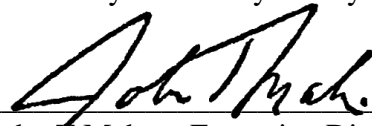
Tenant (18 years of age or older) Signature

Date

Tenant (18 years of age or older) Signature

Date

Housing Authority of the City of Bayonne

By: 
John T Mahon, Executive Director

THIS DOCUMENT BEING EXECUTED IN 2 (TWO) ORIGINALS