

CHAPTER 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION:

It is the policy of the NBHA to recruit owners to participate in the Voucher Program. The NBHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the HA. The regulations define when the NBHA must disallow an owner participation in the program, and they provide the NBHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval and the various penalties for owner violations.

A. **DISAPPROVAL OF OWNER** [24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, “owner” includes a principal or other interested party.

The NBHA will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed the NBHA that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the NBHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the NBHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.
- Unless their lease was effective prior to the effective date of federal regulation, the owner may not be parent, child, grandparent, grandchild, sister or brother of any family member. The NBHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.
- In cases where the owner and tenant bear the same last name, the NBHA may, as its discretion, require the family and/or owner to certify whether they are related to each other in any way.
- The owner has violated obligations under a Housing Assistance Payments contract.
- The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner’s obligations to maintain the unit up to

HQS Standards, including any standards the NBHA has adopted in this policy.

- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- The owner has participated in any drug-related criminal activity or any violent criminal activities.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
- The owner has a history or practice of renting units that fail to meet State or Local housing codes.
- The owner has not paid State or Local real estate taxes, fines or assessments.
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.
- The owner has engaged in or threatened abusive or violent behavior toward NBHA personnel. “Abusive or violent behavior” can be verbal (written or oral) or physical gestures customarily used to intimidate. “Threatening” refers to verbal (oral or written) threats or physical gestures that communicate intent to abuse or commit violence.
- The owner has a current or prior history of refusing to evict tenants for activity by the tenant, any member of the household, a guest or other person under the control of any member of the household that:
 - a. Threatens the right to peaceful enjoyment of the premises by other residents;
 - b. Threatens the health or safety of residents, NBHA employees, or owner employees;
 - c. Threatens the health or safety of neighbors’ rights to peaceful enjoyment of their residence; and
 - d. Engages in drug-related criminal activity or violent criminal activity.

B. OWNER RESTRICTIONS AND PENALTIES: [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations the NBHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The NBHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the NBHA will review all relevant factors pertaining to the case, and will consider such factors as the owner’s record of compliance and the number of violations.

See Program Integrity Addendum for guidance as to how owner fraud will be handled.

C. CHANGE IN OWNERSHIP:

A change in ownership does not require execution of a new contract and lease. It does require an assignment of the contract and lease to the new owner.

The NBHA may approve the assignment of the HAP contract. The NBHA may approve the assignment, since they are a party to the contract. The NBHA may deny approval of assignment of the contract, for any of the reasons listed in this chapter.

The NBHA will process a change of ownership only upon the request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the employee identification number or social security number of the new owner as noted on the required W-9 and Payee forms.

The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

D. TENANT IN FORECLOSURE:

Landlords of foreclosed properties in which Section 8 voucher recipients reside must comply with new protections contained in Sections 702 and 703 of the Protecting Tenants at Foreclosure Act (PTFA), which is part of the Helping Families Save Their Homes Act of 2009 (Public Law 111-22, approved May 20, 2009).

A landlord who gains ownership through a foreclosure sale is an "immediate successor in interest". A Successor in interest becomes subject to the HAP contract in effect as revised by statute, as stated above, and in order to terminate the existing tenancy there must be "good cause" other than vacating the property prior to sale.

Except for purchasers who will occupy the property as the primary residence, successors in interest take their interest subject to the remaining term of any bona fide lease, as follows:

1. the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure shall not affect any State or Local law that provides longer time periods or other additional protection for tenants; and

2. vacating the property prior to sale shall not constitute "other good cause" for termination of tenancy, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner;

- a) Will occupy the unit as primary residence; and

- b) Has provided the tenant a notice to vacate at least 90-days before the effective date of such notice

The NBHA will monitor and enforce this provision.