

## JACKSON HOUSING AUTHORITY

### SECTION 8 HOUSING CHOICE VOUCHER PROGRAM - OWNER POLICY

JHA's policy for ensuring owner compliance with applicable requirements is focused on its primary obligations - ensuring decent, safe, and sanitary housing for its Section 8 tenants and ensuring JHA's compliance with its obligations under its HAP Contract with HUD.

Generally, the applicable HUD regulations are found at 24 C.F.R. 982.306. Those regulations make clear that no owner is entitled to participate in the Section 8 Program: "Nothing in this rule is intended to give any owner the right to participate in the Program." 24 C.F.R. 982.306(e). Further, the regulations require that JHA make determinations about participation in the Section 8 HCV Program at the principal level, without regard for distinct legal entities that may serve as owners of the properties for real estate purposes: "For purposes of this section, 'owner' includes a principal or other interested party." 24. C.F.R. 982.306(f).

1. JHA must deny participation when:
  - a. It has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation under 2 CFR part 2424.
  - b. When directed by HUD, if:
    - i. 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; or
    - ii. A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
  - c. The owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless JHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against JHA's approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to JHA's approval of a new tenancy with continued tenant-based assistance in the same unit.
2. The HUD regulations give broad discretion for when JHA may deny owner's participation in the Section 8 Program, including for the following reasons:
  - a. The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

- b. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
  - c. The owner has engaged in any drug-related criminal activity or any violent criminal activity;
  - d. 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;
  - e. The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
    - i. Threatens the right to peaceful enjoyment of the premises by other residents;
    - ii. Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;
    - iii. Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
    - iv. Is drug-related criminal activity or violent criminal activity; or
  - f. The owner has a history or practice of renting units that fail to meet State or local housing codes; or
  - g. The owner has not paid State or local real estate taxes, fines or assessments.
3. JHA's policy is to be deliberate in its decision to ban an owner from the Section 8 HCV Program. It utilizes a tiered approach to resolving problems with owners. And, the policy recognizes that the Section 8 HCV Program is intended to operate as a private landlord-tenant relationship. Consequently, the tiers are:
- a. Tenant attempts to resolve issue directly with the landlord. JHA insists that tenants deal directly with owners, first. Tenants should be able to document their efforts to resolve problems with owners.
  - b. JHA communicates with owners to resolve problems, once it is clear that issues remain (after tenants attempt to resolve problems with the owners).

- c. JHA will order a “special inspection” (a/k/a a “complaint inspection”) to assess the unit’s condition, when the problem is in connection with the condition of the unit.
- d. Owner’s opportunity to cure. If the unit fails an inspection, JHA will allow the owner an opportunity to remedy that failure and will schedule a re-inspection.
- e. If the unit fails the re-inspection, then JHA abates HAP Contract subsidy to the owner. HAP Contract subsidy abatement is a serious consequence and should make it obvious to any owner that compliance with the Section 8 HCV Program requirements is critical. Again, HAP Contract subsidy abatement occurs after the owner is given notice to make repairs and fails to do so prior to the follow up inspection. JHA will issue notice of the HAP Contract subsidy abatement that contains specific language:

*“If any of the items have not been corrected or the inspector is unable to complete the inspection due to noncompliance, payment will be stopped (abated). No repayment will be made for the time that the payments were stopped. During this time, the tenant is responsible for only their portion of the rent. Continued noncompliance will result in cancellation of the lease/contract.”*

- f. If an owner has multiple HAP Contract subsidy abatements or continues to show disregard for ensuring a decent, safe, and sanitary dwelling unit for its tenants, then JHA removes that unit from the Section 8 HCV Program and bans additional tenancies to the owner for a period of 24-months. JHA will not displace other existing tenants in that owner’s portfolio during the 24-month period, except in cases of exigent health and safety concerns or owner’s Section 8 HCV Program violations that require termination of existing HAP contracts. In such cases, JHA will assist those tenants in finding replacement housing.
4. JHA reserves the right to immediately (without utilizing the tiered approach) ban an owner’s participation in the Section 8 HCV Program (at a specific property or generally) for issues of noncompliance that:
- a. create exigent health and safety concerns for tenants;
  - b. reasonably appear to be perpetrating a fraud against HUD, JHA, or tenants, including, without limitation, situations in which an owner has required or demanded payments from a tenant in excess of that allowed under the HAP Contract (for example, side agreements between an owner and tenant that require additional rent in excess of the HAP rents, seeking court fees/costs in excess of actual fees and costs incurred by the landlord);
  - c. involve the owner seeking recovery from the tenant or otherwise demanding that tenant pay any portion of a HAP subsidy that has been abated;

- d. reasonably appear to be a retaliatory act against a tenant for tenant notifying JHA or any other person, corporation, association, or entity of owner's alleged noncompliance with the Section 8 HCV Program; or
  - e. in JHA's discretion, the owner's immediate ban from the Section 8 HCV Program would be in the best interests of JHA or the tenants.
5. JHA may, on a discretionary basis, allow units or the owner to re-enter the Section 8 HCV Program following the 24-month ban. In utilizing this discretion, JHA may, but is not obligated to, consider mitigating factors such as the seriousness of the violation in relation to the Section 8 HCV Program requirements, the number of violations attributable to the owner, the frequency of the violations attributable to the owner, its impact on the ability of families to lease units under the Section 8 HCV Program, and the health and safety of participating tenants. However, if allowed to re-enter the Section 8 HCV Program, JHA reserves the right to allow such re-entry on a probationary basis for any length of time (for example, 36-months) during which time any instance of a failed re-inspection, HAP Contract subsidy abatement, fraud (*see, Par. 4.b.*), or retaliatory conduct would, in JHA's discretion, result in the owner's complete and final removal from the Section 8 HCV Program. If an owner is allowed to re-enter the Section 8 HCV Program on a probationary basis, it shall execute an acknowledgment of its probationary status on a form prepared by JHA.