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TITLE 825 - HOUSING AND MORTGAGE FINANCE CORPORATION

CHAPTER 40 - RULES RELATIVE TO OTHER PROGRAMS

SUBCHAPTER 00 - N/A

PART 1 - Resident Selection Plan

1.1 GENERAL PROVISIONS

1.1.1 PURPOSE

The purpose of this Resident Selection Plan is to establish uniform application, waiting list and tenant selection policies, practices and procedures to be used in the administration of all Section 8 projects constructed or substantially rehabilitated under permanent financing provided by Rhode Island Housing and Mortgage Finance Corporation ("RIHMFC")

1.1.2 AUTHORITY

Pursuant to its contract with the United States Department of Housing and Urban Development ("HUD"), RIHMFC is responsible for supervision of the development and management functions of managing agents and owners of Section 8 projects constructed or substantially rehabilitated under permanent financing provided by RIHMFC ("state agency financed Section 8's"). In addition, Rhode Island law provides that RIHMFC must approve the resident selection plan for each state agency financed Section 8 and further provides that RIHMFC may publish regulations governing the terms of such resident selection plans. This Resident Selection Plan is issued as a RIHMFC regulation pursuant to the authority conferred by R.I. Gen. Laws § 42-55-11 (1984 Reenactment).

1.1.3 APPLICABILITY

This Resident Selection Plan applies to all state agency financed Section 8's from and after January 1, 1986.

1.1.4 DEFINITIONS

- A. Official Date of Application, means the date upon which the owner or managing agent of a state agency financed Section 8 is aware of receipt or physical possession of a completed application for admission. An application is complete when it contains all legally required information. The date of receipt of the application shall be presumed to be the date stamped on the receipt provided to the applicant.

- B. Updated Waiting List, means the complete re-posting on a monthly basis of a waiting list showing the names of applicants in current proper order. Applicants who have received an apartment within the past month shall be deleted from the list.
- C. Revised Waiting List, means a posted waiting list with notations added, between monthly updates, which shall include notations showing which applicants on the updated waiting lists have received an apartment. Notations showing that an applicant has received an apartment must include the date of admission to the project and the preferential basis for admission, if applicable.
- D. Lower Income Applicant, means a person or family whose total Annual Income is between 50 percent and 80 percent of the median income for the area, as determined by HUD, or such other person as satisfies HUD's regulations defining "lower income". RIHMFC will inform owners and managing agents of state agency financed Section 8's of current area median income figures at least annually, and within a reasonable time after HUD announces any changes in these figures.
- E. Very Low-Income Applicant, means a person or family whose total Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, or such other person as satisfies HUD's regulations defining "very low income". RIHMFC will inform owners and managing agents of state agency financed Section 8's of current area median income figures at least annually, and within a reasonable time after HUD announces any changes in these figures.
- F. Post-October 1, 1981 Project, means any state agency financed Section 8 which first became available for occupancy on or after October 1, 1981.
- G. Pre-October 1, 1981 Project, means any state agency financed Section 8 which first became available for occupancy prior to October 1, 1981.

1.2 APPLICATION PROCESS

1.2.1 APPLICATION FOR ADMISSION

- A. Applications must be made available at the management office of each state agency financed Section 8, and must be provided to applicants by mail, upon request.
- B. At the time applications are provided or as soon thereafter as possible (but in no event later than the time of acceptance of the application), managing agents must provide all applicants with a pamphlet, substantially identical to § 1.5 of this Part (Exhibit A), which outlines the eligibility requirements for admission to the project and which contains a description of the application and tenant selection procedures employed by the project.

1. The pamphlet must advise the applicant, in bold letters, that it is the applicant's responsibility to keep the project informed of his or her current address, and that failure to keep the project so informed may result in the applicant's removal from the waiting list.
 2. Any form of pamphlet other than § 1.5 of this Part (Exhibit A) must be submitted to RIHMFC for approval prior to distribution to applicants.
- C. All entries on the application are to be made in ink and all applications must be completed in full.
- D. At the time that the application is submitted to the owner or managing agent of a state agency financed Section 8, the applicant must be provided a receipt substantially identical to the receipt attached hereto as § 1.6 of this Part (Exhibit B). The receipt must contain:
1. The applicant's name.
 2. The name of the Section 8 project.
 3. The date of receipt of the application by the owner or managing agent of the project.
- E. In the event that the application is mailed to the project, the project must mail the receipt to the applicant within two business days after receiving the application.

1.2.2 EVALUATION OF APPLICANTS

- A. **Categorical Eligibility Requirements.** Within 20 days of the official date of application, the owner or managing agent must determine whether the applicant meets HUD-mandated categorical eligibility requirements relating to family composition and family income, on the basis of the information and materials provided to the owner or managing agent. The applicant must be provided notice of this determination in accordance with § 1.2.3(A) of this Part. In the event that the owner or managing agent subsequently received information or materials which indicates that the categorical eligibility requirements are not met, the applicant must be provided notice of this change in determination immediately, as provided in § 1.2.3(D) of this Part.
- B. **Non-Categorical Eligibility Requirements.**
1. Owners and managing agents may evaluate applicants for admission to state financed Section 8's on the basis of "non-categorical" criteria, including, but not limited to, factors such as the applicant's rent paying history or comments from prior landlords.
 2. A determination of eligibility on the basis of non-categorical criteria may be made at the same time that the applicant is first evaluated for the

categorical eligibility requirements. Management may choose not to do such an initial non-categorical investigation, in which case management will be bound by § 1.2.2(B)(4) of this Part, below. If management does choose to do an initial non-categorical determination, then it must be completed not more than sixty (60) days after the official date of application.

3. If the managing agent decides to evaluate applicants on the basis of non-categorical eligibility requirements at the time of initial application, the applicant nonetheless must be notified whether he or she meets HUD-mandated categorical eligibility requirements within 20 days of the official date of application, as provided in § 1.2.2(A) of this Part, above. This notification must be made even if a determination of eligibility on the basis of non-categorical criteria is not completed by that time. If the applicant is subsequently determined to be ineligible for admission based on non-categorical eligibility requirements, he or she must be provided notice of this decision as provided in § 1.2.3(D) of this Part.
4. A separate and optional determination of eligibility for Section 8 housing on the basis of non-categorical criteria may be made no later than two (2) months before the estimated date by which the applicant may be expected to receive an apartment, or 60 days after the official date of application, whichever is later. This separate determination of eligibility may not include consideration of any matters which occurred prior to the date on which the applicant is placed on the waiting list, except with respect to serious and substantial matters relevant to the applicant's fitness as a tenant, which the managing agent was unaware of and reasonably did not discover at the time the applicant was placed on the waiting list. Examples of such serious and substantial matters are criminal convictions relevant to the applicant's fitness as a tenant and serious and willful destruction of property. The applicant must be provided notice of this determination in accordance with § 1.2.3(D) of this Part.

1.2.3 NOTIFICATION TO APPLICANT

- A. The applicant must be notified in writing of the initial decision regarding his or her categorical eligibility for admission within 20 days of the official date of application. Notification of eligibility for any preference for which an applicant applied must be sent by management no later than sixty (60) days after the application for a preference was made, whether at the initial application or at a later date. See § 1.2.5(C) of this Part, for a discussion of preferences.
- B. Unfavorable Decision. If the applicant is determined to be ineligible for admission or for a requested preference, the written notice must be substantially identical to § 1.7 of this Part (Exhibit C) and must:

1. Clearly state the reasons in support of that decision with sufficient specificity to fully inform the applicant of the basis of the denial.
2. Inform the applicant of his or her right to challenge the decision through the review process within 15 days of mailing of the notice (See § 1.2.4 of this Part).
3. Inform the applicant of the procedures which must be followed to request review.
4. Inform the applicant that he or she may pursue other avenues if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, sex, national origin, age or handicap.

C. Favorable Decision.

1. If an applicant is determined to be categorically eligible for admission and there is an appropriate size bedroom unit available, the managing agent must notify the applicant with notice of this determination within 20 days of the official date of application, in accordance with § 1.2.3(A) of this Part. The managing agent must make its decision regarding non-categorical criteria, if such decision is going to be made, so that a final notice of eligibility will be provided to the applicant no later than 60 days after the official date of application. This notice of eligibility must be substantially identical to § 1.8 of this Part (Exhibit D) and must inform the applicant that he or she has been selected for admission to the state agency financed Section 8 and must advise the applicant to contact the managing agent to arrange for signing a lease.
2. If the applicant is determined to be categorically eligible for admission but the project does not have an appropriate size bedroom unit then available for the applicant, the notice must be substantially identical to § 1.9 of this Part (Exhibit E) and must:
 - a. Inform the applicant that he or she has satisfied the categorical requirements for admission to the project.
 - b. Inform the applicant that eligibility for admission is contingent upon his or her meeting the categorical eligibility requirements at the time a unit is available, as well as satisfying non-categorical requirements.
 - c. Inform the applicant that an appropriate size unit is presently unavailable and that he or she has been placed on a waiting list.
 - d. Inform the applicant as to which waiting list he or she has been assigned, his or her number on the waiting list and the approximate date that a unit may be available. The estimate of the approximate

date of availability is not a promise that such a unit actually will be available on that date.

3. Post-October 1, 1981 Projects. At the present time, applicable statutes and HUD regulations exclusively limit admission to Post-October 1, 1981 projects to very low-income applicants. Thus, lower income applicants for admission to post-October 1, 1981 Projects, although technically eligible for admission to the project, are very unlikely to be selected for admission under the current statutes and HUD regulations and are very likely to remain on the waiting list indefinitely. The written notice sent to such lower income applicants must be substantially identical to § 1.10 of this Part (Exhibit F) and must:
 - a. Inform the applicant that current statutes and regulations limit admission to the project to very-low income applicants, unless there are no such applicants.
 - b. Inform the applicant of his or her current position on the waiting list.
 - c. Inform the applicant that he or she will not be admitted to the project for an indefinite period of time.
 - d. Inform the applicant of the procedures to be followed to request a review on his or her income status if the applicant believes that the owner or managing agent has improperly calculated his or her income and that he or she satisfies the very low-income requirements.

D. Subsequent Notification.

1. If, subsequent to an applicant's receipt of a notice of favorable decision, the owner or managing agent determines that the applicant does not satisfy the categorical or non-categorical eligibility requirements, the applicant must immediately be sent a notice substantially identical to § 1.11 of this Part (Exhibit G). This notice must provide the information outlined in in § 1.2.3(B) of this Part.
2. Determinations of ineligibility based on non-categorical eligibility criteria and not provided by notice within 60 days after the official date of application may not take into consideration any matters which occurred prior to the date on which the applicant was initially placed on the waiting list, except with respect to serious and substantial matters relevant to the applicant's fitness as a tenant which the managing agent was unaware of and reasonably did not discover at the time the applicant was placed on the waiting list. See § 1.2.2(B)(3) of this Part (for examples of such conduct).

E. Rejection of an Available Apartment.

1. If an applicant is notified that an apartment is available for his or her occupancy, and the applicant rejects the apartment without a bona fide and substantial reason, the owner or managing agent may remove the applicant from his or her place on the waiting list. If the applicant is removed from the waiting list and placed on the bottom of the list, the applicant's official date of application will become the date on which he or she rejected the available apartment.
2. If an owner or managing agent rejects an applicant's reason for refusing an available apartment, the applicant has the right to an informal hearing before RIHMFC to challenge the decision (see § 1.2.4 of this Part), and the written notice to the applicant shall so state, in a form substantially similar to § 1.7 of this Part (Exhibit C) to the Resident Selection Plan.

1.2.4 REVIEW PROCESS

- A. Any applicant who is determined to be ineligible for admission, a preference for which they applied, or placement on a very low-income limit waiting list due to excess income, or an applicant whose reasons for refusing an available apartment are rejected and who loses his or her place on a waiting list, shall have the right to have an informal hearing before RIHMFC to challenge the decision.
- B. In order to obtain an informal hearing, the applicant must complete a Request for Hearing form, which shall be provided to applicants who have been determined to be ineligible for admission or for any preference, and forward it to RIHMFC no later than fifteen days from the date of the notice of ineligibility. The Request for Hearing form to be provided to applicants must be substantially identical to § 1.12 of this Part (Exhibit H).
- C. RIHMFC will promptly contact both the applicant and the managing agent of the state agency financed Section 8 to schedule a time for the informal hearing
- D. The following procedures shall apply at the informal hearing:
 1. The hearing will be conducted by an employee of RIHMFC selected to act as hearing officer.
 2. Each party shall have the right to be represented by counsel, at their own expense.
 3. Each party shall have the right to present and establish all facts by oral testimony and/or by documentary evidence.
 4. The applicant and the managing agent shall have the right to produce live witnesses at the informal hearing.

5. The applicant shall have the right to review his entire application file prior to the informal hearing. Unless other arrangements are made by agreement, the applicant must be given an opportunity to review the application file at least thirty minutes prior to the informal hearing. Any document not made available to the applicant prior to the informal hearing may not be relied upon by the managing agent at the hearing.
6. Within ten (10) working days after the informal hearing, the hearing officer shall issue a written decision on the applicant's request for review of the managing agent's determination of ineligibility.
7. The written decision must briefly set forth the reasons for the decision, and must be based solely on the evidence presented at the hearing and applicable statutes and regulations.
8. The hearing officer shall promptly mail a copy of the written decision to the parties and their counsel, if any, upon issuance of the decision.

1.2.5 WAITING LISTS

- A. Eligible applicants for whom an appropriate size unit is unavailable will be placed on a waiting list.
- B. Four separate waiting lists must be maintained for each bedroom size unit in each project. The following waiting lists must be maintained for each size unit:
 1. Very low-income preference list.
 2. Very low-income non-preference list.
 3. Lower income preference list.
 4. Lower income non-preference list.
- C. At the present time, HUD regulations regarding preferences have not yet been implemented. Until HUD preference regulations are implemented and are made effective, owners and managing agents of state agency financed Section 8 projects need only establish two waiting lists for each bedroom size unit in the project, i.e., very low-income and lower income.
- D. Each waiting list must be posted in a public area at the project which is easily accessible to applicants. The waiting list must state:
 1. The name of each applicant (last name, first initial only); and
 2. The date of application.

- E. Updated waiting lists must be posted monthly. The appropriate waiting list must be regularly revised between updates to show that an applicant has been admitted from the waiting list. The revision must indicate the date of admission of the applicant and the basis for preferential admission, if applicable. See §§ 1.3(D) and 1.3(E)(6) of this Part.
- F. Transfers. In the event of a change in the applicant's profile which would affect eligibility, such as a change in income, family size or eligibility for preference, the applicant will be transferred to the waiting list which is appropriate in light of the changed circumstances.
 - 1. The applicant's position on the new waiting list will be based upon the official date of application for admission to the project and not upon the date that the changed circumstances were brought to the managing agent's attention.
 - 2. The revised waiting list shall note the fact of the transfer after the applicant's name on the new list so as to inform other applicants on that list of the transfer.
- G. In-House Transfers. In the event of a change in the profile of an existing tenant which would affect the unit size which is appropriate for that tenant, such as a change in family size or a need for a specially designed unit, the existing tenant will be added to the waiting list which is appropriate in light of the changed circumstances
 - 1. The existing tenant will be placed at the top of the waiting list and will be assigned the next available appropriate size unit.
 - 2. The revised waiting list shall note the fact of the addition after the existing tenant's name on the list so as to inform other applicants on that list of the addition.
- H. In July of each year applicants on each waiting list whose application is more than two years old must be contacted by the owner or managing agent of the project in order to determine whether they remain interested in admission to the project.
 - 1. Owners or managing agents shall contact applicants by mailing a letter to the applicant's last known address.
 - 2. The letter shall be substantially identical to §§ 1.13 (Exhibit I) and 1.14 (Exhibit J) of this Part. The letter must inform the applicant, in both English and Spanish, that he or she must respond in writing to the managing agent within 90 days of the mailing of the letter, and that his or her name will be removed from the waiting list if he or she fails to respond to the managing agent within that time. If the applicant fails to respond in

writing to the managing agent within the 90-day period, then his or her name may be removed from the waiting list.

3. If the letter to the applicant is returned to the managing agent as undeliverable, the managing agent will send a second letter to the applicant. If the applicant fails to contact the managing agent within 90 days of the date the second letter was mailed, he or she will be removed from the waiting list.

1.3 RESIDENT SELECTION PROCESS

- A. General. Applicable statutes and HUD regulations dictate that different resident selection policies and procedures be employed for Pre-October 1, 1981 and Post-October 1, 1981 Projects. This section outlines the resident selection process to be used for each type of project.
- B. Post-October 1, 1981 Projects
 1. General. At the present time applicable statutes and HUD regulations exclusively limit admission to Post-October 1, 1981 projects to very low-income applicants.
 2. Applicants will be selected for admission from the waiting lists in the following manner:
 - a. Applicants will be selected from the very low-income preference list in the order of the official date of application.
 - b. If there are no applicants on the very low-income preference list, or if there are no preferences and this list does not exist, applicants will be selected from the very low-income non-preference list in the order of the official date of application.
 - c. If there are no applicants on either of the very low-income lists, applicants will be selected from the lower income list in the order of the official date of application.
 - d. If there are no applicants on the lower income preference list, or if there are no preferences and this list does not exist, applicants will be selected from the lower income non-preference list in the order of the official date of application.
 - e. In the event that HUD shall determine that some lower income applicants may be selected before very low-income applicants, such as by granting limited waivers of the 100% very low-income requirement, applicants will be selected from the lower income list in the order of the date of the official date of application.

- f. No consideration may be given to the relative incomes of applicants in making any selection from any waiting list, i.e., no applicant may receive a preference for admission due to higher income than any other applicant.

C. Pre-October 1, 1981 Projects. Applicants will be selected for admission from the waiting lists for pre-October 1, 1981 Projects in the following manner:

1. For apartments of each bedroom size, the first three available apartments will be filled from the very low-income preference list, or, if no such applicant exists, from the very low-income non-preference list. Applicants will be selected in the order of the official date of application.
2. Every fourth available apartment for each bedroom size will be filled from the lower income preference list or, if no such applicant exists, from the lower income non-preference list. Applicants will be selected in the order of the official date of application.
3. The next three tenant selections will then be followed by one selection from the lower income lists. Applicants will be selected in the order of the official date of application. The selection process will thereafter continue in the same fashion.
4. In the event that there are no eligible applicants on the very low-income waiting lists, applicants may be selected from the lower income waiting lists as if the selections had been made from the former. Similarly, selections shall be made from the very low-income waiting lists in the event that there are no applicants on the lower income waiting lists. Applicants will be selected in the order of the official date of application.
5. Except to the extent permitted above, no consideration may be given to the relative incomes of applicants in selecting applicants for admission to the project, i.e., no applicant may receive a preference for admission due to higher income than any other applicant.

D. Limited Discretion/Pre-October 1, 1981 Projects. With respect to selection of applicants from lower income waiting lists, as described above, owners or managing agents will be permitted to exercise limited discretion to admit applicants to the project who are otherwise eligible for admission to the project but are not first on the appropriate waiting list. The following conditions apply to the exercise of this limited discretion:

1. This discretion may not be exercised for more than 10% of the families receiving apartments.
2. This discretion may be exercised only in cases of extreme hardship or exceptional circumstances involving an actual and immediate need for such housing which reasonable justifies such selection.

3. In all cases where an owner or managing agent shall seek to exercise this discretion to select a tenant pursuant to this section, the owner or managing agent shall be required to send a letter to RIHMFC stating:
 - a. The name of the proposed tenant;
 - b. The date of proposed initial occupancy and the number of the available apartment;
 - c. The official date of application and current place on the waiting list.
 - d. Whether the tenant was in the very low-income or lower income category.
 - e. Certification that the tenant otherwise satisfies the criteria for Section 8 housing; and
 - f. In detail, the exceptional circumstances justifying preferential admission of the tenant to the project.
 4. RIHMFC may deny any request for preferential admission under this section if, in its opinion, the reasons advanced by the owner or managing agent to justify admission of the tenant do not meet the requirements of this section.
 5. If RIHMFC decides to disallow the request for preferential admission, it will so notify the owner or managing agent within 14 days of the date of RIHMFC's receipt of the request. If RIHMFC does not deny the request within 14 days of receipt of the request, the request is deemed to be granted and the applicant may be admitted to the project.
 6. Any admissions pursuant to this subsection must be noted on the appropriate waiting list in accordance with § 1.2.5(E) of this Part.
- E. Affirmative Fair Marketing and Tenant Selection. RIHMFC is committed to ensuring that all state agency Section 8's are providing open housing opportunities for persons of all races and colors, are in compliance with the Fair Housing Act, and are meeting the goals set forth in the development's current Affirmative Fair Housing Marketing Plan (AFHMP). The following provisions are intended to ensure that these objectives are being met:
1. For purposes of this subsection, the following definitions shall apply:
 - a. Minority means a Black, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native tenant or applicant.
 - b. Minority Occupancy Rate means the total number of units at a state agency Section 8 occupied by minority tenants.

2. RIHMFC will continue to monitor, through the regular monthly reports of tenant profiles submitted by owners or managing agents, as well as other information made available to RIHMFC, the minority occupancy rate of each state agency Section 8.
3. If RIHMFC determines that the minority occupancy rate of a state agency Section 8 is less than fifty (50%) percent of the anticipated minority occupancy rate as set forth in the current AFHMP, RIHMFC will notify the owner or managing agent of the project in writing of its finding and of RIHMFC's intention to apply the supplemental tenant selection procedures described in § 1.3(E)(6) of this Part, below.
4. The owner or managing agent of a state agency Section 8 which received such a written notice may respond to RIHMFC's notice within twenty (20) days of the date of receipt of the notice.
5. If the owner or managing agent of the state agency Section 8 does not respond to RIHMFC's notice, or based upon the information available to RIHMFC and notwithstanding the owner's or managing agent's response RIHMFC concludes that application of regular resident selection procedures will not result within thirty (30) days thereafter in a minority occupancy rate of at least fifty (50%) percent of the anticipated minority occupancy rate as set forth in the current AFMHP, RIHMFC shall notify the owner or managing agent in writing of its finding and shall order the owner or managing agent to implement the supplemental tenant selection procedures contained in § 1.3(E)(6) of this Part, below.
6. Supplemental Tenant Selection Procedures. The first applicant selected for admission for the first available apartment for each bedroom size following the imposition of the supplemental tenant selection procedures shall be a minority applicant, if there is an eligible minority applicant on the appropriate waiting list at that time. Thereafter, every second applicant selected for admission for each bedroom size shall be a minority applicant, if there is a minority applicant for that bedroom size.
7. Minority applicants selected pursuant to this subsection shall be chosen from the appropriate waiting list in chronological order based on official date of application. No consideration may be given to the relative incomes of applicants in making any selection from among minority applicants for admission under this section, i.e., no applicant may receive a preference for admission due to higher income than any other applicant.
8. Any admissions pursuant to this subsection must be noted on the appropriate waiting list in accordance with § 1.2.5(E) of this Part.
9. The supplemental tenant selection procedures set forth in § 1.3(E)(6) of this Part, above, shall be employed until the regular monthly reports of

tenant profiles or other information made available to RIHMFC shows that the minority occupancy rate has reached or exceeded fifty (50%) percent of the anticipated minority occupancy rate as set forth in the current AFHMP.

10. Apartments provided to applicants selected for admission under this subsection shall not be considered "available apartments" under §§ 1.3(B) and (C) of this Part, and shall not be included in selection calculations required to be made under those sections.
 11. Owners and managers of Section 8 developments may request amendment of the current AFHMP. Any amendment of the AFHMP must be approved by RIHMFC and HUD in order to become effective.
- F. Handicapped Housing. RIHMFC is committed to ensuring that housing designed for handicapped individuals will continue to be provided in state agency financed Section 8's. All admissions to handicapped housing units will be excluded from the provisions of §§ 1.3(A) through (C) of this Part; instead, handicapped applicants will be selected from among all handicapped applicants for handicapped housing units on a first-come, first-served basis, in the order of the official date of application. In any development where a certain number of units, whether specifically designed or not, are set aside for handicapped applicants, this subsection shall apply and the current HUD definitions of "handicapped" and/or "disable" shall be applicable.
- G. Superintendent Units. For each state agency financed Section 8, the owner or managing agent may receive from HUD permission to set aside one unit for a superintendent or maintenance person. For any project which received authorization for such a unit and uses that unit for its designated purpose, that unit shall be excluded from the provisions of this Plan.
- H. Ladd School and Mental Health Programs. RIHMFC is committed to ensuring that existing housing units provided by certain state agency financed Section 8's for individuals referred by the Ladd School and the Rhode Island Department of Mental Health, Retardation and Hospitals will continue to be provided to such individuals. All admissions to such existing housing units for the Ladd School and the Department of Mental Health, Retardation and Hospitals will be excluded from the provisions of §§ 1.3(A) through (C) of this Part; instead, such admissions will be handled on the same basis that they have been to date, in accordance with the existing agreement. Those units currently involved in these two programs are identified in a separate stipulation filed in this case. Proposals to add or subtract units involved in the two programs will be submitted in advance to RIHMFC and to counsel for plaintiffs.

1.4 ENFORCEMENT PROVISIONS

- A. On or before August 1 of each year, the owner or managing agent of each state agency financed Section 8 must submit a list to RIHMFC containing the names of all applicants who have been assigned a unit in the project or have been denied eligibility for apartments since the previous such list was provided to RIHMFC. The first list provided to RIHMFC pursuant to this Section shall contain the names of all applicants assigned a unit or denied eligibility since January 1, 1986. The first list must be provided to RIHMFC by August 1, 1986.
- B. The list shall contain the following information regarding applicants who have been assigned units:
 - 1. The name of the applicant.
 - 2. The apartment number and bedroom size of the unit assigned.
 - 3. The official date of application.
 - 4. The income category of the applicant (i.e., lower income or very low-income).
 - 5. Whether the applicant was assigned from a preference or non-preference waiting list.
 - 6. The date of initial occupancy.
- C. The report shall contain the following information regarding applicants who were denied eligibility for admission:
 - 1. The name of the applicant.
 - 2. The official date of application
 - 3. The reason for the denial eligibility for an apartment.
 - 4. Whether or not the applicant requested a review to contest the determination of ineligibility.
 - 5. The result of the review.

1.5 EXHIBIT A – PAMPHLET

(Basic Pamphlet for Pre-Oct. 1981 Elderly/Handicapped Developments – with HUD Preferences)

INTRODUCTION

The Section 8 New Construction Program is designed to provide families and individuals with a safe, secure and affordable place to live. (Name of Section 8) was designed for elderly and handicapped residents. The following is a brief explanation of the application and selection process and requirements at (name of Section 8).

ELIGIBILITY FOR ADMISSION

In order to be eligible for admission to (name of Section 8), you must:

Be an "Elderly Family" as defined by the United States Department of Housing and Urban Development (HUD). An "Elderly Family" is a family in which the head of the household, spouse, or sole member is 62 years of age or older, handicapped, or disabled. In determining whether you are an eligible "Elderly Family", we will apply the following definitions:

"Family" is two or more persons sharing residency and (1) who are related by blood, marriage or operation of law, or (2) who demonstrate a stable relationship which has existed or which can be anticipated to exist, over a continuous period of time.

"Disabled person" is a person who is under a disability as defined in the Social Security Act, or the Developmental Disabilities Services Construction Amendments of 1970.

"Handicapped person" is a person having a physical or mental impairment that (a) is expected to be of long continued and indefinite duration, (b) substantially impedes his or her ability to live independently, and (c) is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

Have a total family income within income limits established by HUD.

Demonstrate that you will be a good tenant at (name of Section 8). In determining whether you will be a good tenant, we may consider such factors as recommendations from past landlords and your rent paying history.

APPLICATION PROCESS

We will accept an application for admission from any person or family. Applications are available at the management office of (name and address of Section 8). All application must be completed in full. Applications may be submitted in person or by mail. Each applicant will receive a receipt, indicating the Official Date of Application, at the time the application is submitted. You should keep this receipt in a safe place since it is proof of the date of your application.

We are required to verify the information you provided regarding income and family composition. We may ask you to assist us in documenting this information.

NOTIFICATION TO APPLICANT

You will receive written notice of our decision regarding your eligibility within 20 days of your Official Date of Application.

If we determine that you are ineligible for admission, we will inform you of the specific reasons for our decision. You will have an opportunity to challenge this decision through the Review Process. You will be provided a Request for Hearing Form with the notice of ineligibility.

If we determine that you are eligible for admission, you will be placed on the appropriate waiting list and will be informed of the approximate date upon which you may be assigned an apartment.

WAITING LISTS

The following waiting lists will be maintained for each bedroom size apartment at (name of Section 8):

Very low-income preference.

Very low-income non-preference.

Lower income preference.

Lower income non-preference.

All eligible applicants will be placed on the appropriate waiting list for their applicant profile. The waiting lists are posted in our management office for your review.

If your income is less than 50 percent of the median area income, you will be placed on the very low-income waiting list. If your income is between 50 and 80 percent of area median income, you will be placed on the lower-income waiting list. Our office can provide you with current median income figures for this area.

You are entitled to be placed on the appropriate "preference" waiting list if you are:

Being displaced by government action.

Currently living in substandard housing.

Currently paying more than 50 percent of your income for shelter (rent and utilities).

You should inform us if any of these categories apply to you.

SELECTION FOR ADMISSION

Applicants for admission will be selected from the waiting lists for each apartment size according to a court-ordering formula. Selection from each waiting list will be on a first come, first served basis. In a limited number of cases where extreme hardship or exceptional circumstances produce an immediate need for housing, or where fair housing considerations require alternative admission procedures, an applicant may be granted priority admission. In those situations, the applicant may be moved to the top of the appropriate waiting list and will be assigned the next available appropriate sized apartment.

REVIEW PROCESS

If you disagree with our decision regarding your application for admission, you may request a review of our decision by Rhode Island Housing and Mortgage Finance Corporation (RIHMFC). In order to request a review, you must mail the completed Request for Hearing form to RIHMFC within fifteen days of the date of our notice to you. You should attach a copy of our notice to the form and you should state your reasons for disagreeing with our decision. RIHMFC will contact you concerning the hearing, and will inform you in writing of its decision.

YOUR RESPONSIBILITY

It is your responsibility to keep us informed of any changes in your income or family composition which may affect your eligibility for admission, the bedroom size apartment which is appropriate for you, or your entitlement to a preference. Examples of such a change include a reduction in family income, a permanent reduction in family size, or the condemnation of your present apartment.

In addition, it is your responsibility to inform us of any changes of address. This requirement is very important because we will periodically update the waiting lists. If you do not respond to our update notice, you will be removed from the waiting list and will start from the bottom of the waiting list if you reapply. ALWAYS KEEP US INFORMED OF YOUR CURRENT ADDRESS.

(Modifications to Basic Pamphlet for Family Developments, Pre-Oct. 81 and Post Oct. 81, With or Without HUD Preferences.)

The Section 8 New Construction Program is designed to provide families and individual with a safe, secure and affordable place to live. (Name of Section 8) was designed primarily for families. The following is a brief explanation of the application and selection process and requirements at (name of Section 8).

ELIGIBILITY FOR ADMISSION

In order to be eligible for admission to (name of Section 8), you must be a "family" as defined by United States Department of Housing and Urban Development (HUD). In

addition, individuals who live alone are considered a "family" for eligibility purposes if they are 62 years of age or older, handicapped or disabled.

In determining whether you are an eligible "family" for admission, we will apply the following definitions:

"Family" is two or more persons sharing residency and (1) who are related by blood, marriage or operation of law, or (2) who demonstrate a stable relationship which has existed, or which can be anticipated to exist, over a continuous period of time.

"Disabled person" is a person who is under a disability as defined in the Social Security Act, or the Development Disabilities Services Construction Amendments of 1970.

"Handicapped person" is a person having a physical or mental impairment that (a) is expected to be of long continued and indefinite duration, (b) substantially impedes his or her ability to live independently, (c) is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

Have a total family income within income limits established by HUD.

Demonstrate that you will be a good tenant at (name of Section 8). In determining whether you will be a good tenant, we consider such factors as recommendations from past landlords and your rent paying history.

(Modifications to Basic Pamphlet for Pre-Oct. 81 Developments, Family and Elderly/Handicapped, Without HUD Preferences.)

MAILING LISTS

The following waiting lists will be maintained for each bedroom size apartment at (name of Section 8):

Very low-income.

Lower income.

All eligible applicants will be placed on the appropriate waiting list for their applicant profile. The waiting lists are posted in our management office for your review.

If your income is less than 50 percent of the median area income, you will be placed on the very low-income waiting list. If your income is between 50 and 80 percent of area median income, you will be placed on the lower income waiting list. Our office can provide you with current median income figures for this area.

SELECTION FOR ADMISSION

Applicants for admission will be selected from the waiting lists for each apartment size according to a court-ordered formula. Selection from each waiting list will be on a first come, first served basis. In a limited number of cases where extreme hardship or exceptional circumstances produce an immediate need for housing, or where fair housing considerations produce require alternative selection procedures, an applicant may be granted priority admission. In those situations, the applicant may be moved to the top of the appropriate waiting list and will be assigned the next available appropriate sized apartment.

(Modifications to Basic Pamphlet for Post-Oct. 81 Developments, Family and Elderly/Handicapped, With HUD Preferences.)

MAILING LISTS

The following waiting lists will be maintained for each bedroom size apartment at (name of Section 8):

Very low-income preference

Very low-income non-preference.

Lower income preference.

Lower income non-preference.

All eligible applicants will be placed on the appropriate waiting list for their applicant profile. The waiting lists are posted in our management office for your review.

If your income is less than 50 percent of the median area income, you will be placed on the very low-income waiting list. If your income is between 50 and 80 percent of area median income, you will be placed on the lower income waiting list. Our office can provide you with current median income figures for this area.

You are entitled to be placed on the appropriate "preference" waiting list if you:

Are being displaced by government action.

Currently live in substandard housing.

Currently pay more than 50 percent of your income for shelter (rent and utilities).

You should inform us if any of these categories apply to you.

SELECTION FOR ADMISSION

Applicants for admission will be selected from the waiting lists for each bedroom size on a first come, first served basis. Occasionally, fair housing considerations may

require alternative selection procedures. In those situations, an applicant may be given a preference and moved to the top of the appropriate waiting list.

Current HUD Regulations limit admission to (name of Section 8) to very low-income applicants. Thus, if you are a lower income applicant, you will not be admitted at the present time. However, there is a chance that HUD may permit admission of some lower income applicants in the future. Therefore, we will maintain a waiting list of lower income applicants for use in the event that HUD Regulations are changed or if (name of Section 8) obtains a waiver of this requirement.

(Modifications to Basic Pamphlet for Post-Oct. 81 Developments, Family and Elderly/Handicapped, With HUD Waiver for Lower Income Applicants.)

SELECTION FOR ADMISSION

Current HUD regulations generally limit admission to Section 8 Developments to very low-income applicants. However, (name of Section 8) has been granted a waiver of this requirement, and is authorized to admit a specified percentage of lower income applicants.

Applicants for admission will be selected from the very low-income and lower income waiting lists in a proportion specified by HUD. Selection from each waiting list will be on a first come, first served basis based on the bedroom size unit available. Occasionally, fair housing considerations may require alternative selection procedures. In those situations, an applicant may be given a preference and moved to the top of the appropriate waiting list.

1.6 Exhibit B

APPLICATION RECEIPT

(Name of State Agency Section 8 Project)

(Address)

(Name of Managing Agent)

(Phone Number of Managing Agent)

NAME OF APPLICANT:

ADDRESS OF APPLICANT

OFFICIAL DATE OF APPLICATION:

This acknowledges receipt from the above named person of a completed application for admission to [INSERT NAME OF SECTION 8 PROJECT] on the date specified above. You will be notified of the preliminary decision regarding your eligibility for admission to this project within 20 days of the official date of application listed above by:

For: [INSERT NAME OF SECTION 8 OR MANAGING AGENT]

SAVE THIS RECEIPT. IT IS YOUR PROOF OF APPLICATION.

1.7 Exhibit C

(Name of Section 8 Project)

(Address)

(DATE)

(Name of Applicant)

(Address)

Re: Admission to (Name of Section 8 Project)

Dear _____:

I am writing to inform you that, based upon information you provided on your application, we have determined that you are not eligible for admission to (Name of Section 8).

The specific reasons for this decision are as follows:

(Specify reasons for denial in detail, e.g. you are over income; you are not a "family" under HUD regulations; you have a history of failing to pay rent on time; etc. The reasons must be specific enough to fully inform the applicant of the basis for the denial and to enable the applicant to make an informed decision as to whether to request a hearing to challenge the denial.)

You may request a review of this decision if you desire. If you decide to request a review, you must do so within fifteen days of the date of this letter. To request a review, complete the attached form and mail it to the address indicated on the form. You should keep a copy of the completed form for your records.

You may have additional legal rights if you believe that you are being discriminated against on the basis of race, color, creed, religion, sex, national origin, age or handicap. If you request a hearing to challenge this decision, you are not foreclosed from exercising any other avenues which may be available to you.

You may also be eligible for free legal assistance regarding this decision. If you wish, you may contact Rhode Island Legal Services, Inc., 56 Pine Street, Providence, RI 02903, phone (401) 274-2652 to see if you are eligible.

Very truly yours,

SAVE THIS LETTER.

YOU WILL NEED IT TO REQUEST A REVIEW OF THIS DECISION

REQUEST FOR HEARING

Name:

Date:

Address:

Phone:

I hereby request an informal hearing to review the decision of (name of owner or managing agent) that I am ineligible for admission to (name of Section 8 project).

I believe this decision is wrong because:

(Briefly state your reasons here)

Signature

Send this form to:

Rhode Island Housing and Mortgage Finance Corporation

44 Washington Street

Providence, RI 02903

Attn: John Gordon

TO THE APPLICANT: Attach a copy of the denial notice to your Request for Review.
Keep a copy of the completed form for your records.

1.8 Exhibit D

(Name of Section 8 Project)

(Address)

(DATE)

(Name of Applicant)

(Address)

Re: Admission to (Name of Section 8 Project)

Dear ____:

I am writing to inform you that you have been determined to be eligible for admission to (Name of Section 8).

Please contact the undersigned as soon as possible to schedule an appointment to acquaint you with your apartment, the building and move-in procedures. At that time you will sign your lease, pick up your keys and be given a tentative move-in date and time.

I look forward to hearing from you soon.

Very truly yours,

SAVE THIS LETTER.

IT IS YOUR PROOF OF ACCEPTANCE

1.9 Exhibit E

(Name of Section 8 Project)

(Address)

(DATE)

(Name of Applicant)

(Address)

Re: Admission to (Name of Section 8 Project)

Dear __:

I am writing to inform you that, based on the information you have provided us, you appear to be categorically eligible for admission to (Name of Section 8) as a "very low income" applicant. This means that you meet the income and family composition requirements for admission.

Unfortunately, there are no appropriate sized apartments available at the present time. Therefore, we have placed you on the ____ bedroom "very low income" waiting list. You are currently number ____ on this waiting list. You probably will not be admitted before (ENTER DATE), and there is no guarantee that there will be an opening for you by that date. Until then, you may keep track of your progress by consulting the waiting list which is publicly posted in our office.

Your eligibility for admission to (Name of Section 8) depends upon your meeting all the admission requirements at the time an apartment is available. These include income limits and family composition requirements, as well as other requirements such as satisfactory rent paying history or satisfactory recommendations from prior landlords. These factors may be considered before you are assigned an apartment.

Please remember that it is your responsibility to keep us informed at all times of your current address. We cannot inform you of an available apartment if we are unable to get in touch with you. In addition, we will periodically attempt to contact you to determine if you remain interested in admission to this project. If we are unable to contact you, your name will be removed from the waiting list. If you move from your current address, please contact us immediately.

Finally, please keep us informed of any changes in your family size. Changes in family size may require that you be assigned to a different waiting list.

Please contact us if you have any questions.

Very truly yours,

SAVE THIS LETTER. IT IS YOUR PROOF OF PRELIMINARY APPROVAL

1.10 Exhibit F

(Name of Section 8 Project)

(Address)

(DATE)

(Name of Applicant)

(Address)

Re: Admission to (Name of Section 8 Project)

Dear ___:

I am writing to inform you that you are categorically eligible for admission to (Name of Section 8) as a "lower income" applicant. This means that you meet the income and family composition requirements for admission.

Current statutes and HUD regulations, however, limit admission to this project to "very-low income" applicants, unless there are no such applicants. At the present time, there are many such applicants for admission to this project.

We have placed you on the ___ bedroom "lower income" waiting list. You are number ___ on that waiting list. However, in light of the current admission regulations described above, you will not be admitted for an indefinite period of time.

If you believe that we have improperly calculated your income and you feel that you satisfy the "very low income" requirements, you may request a review of our decision. In order to request a review, you must complete the attached form within fifteen days of the above date. Send the completed form to the address listed on the form. You should keep a completed copy of the form for your records.

You may also be eligible for free legal assistance regarding this decision. If you wish, you may contact Rhode Island Legal Services, Inc. 56 Pine Street, Providence, RI 02903, phone (401) 274-2652 to see if you are eligible.

Very truly yours,

SAVE THIS LETTER. IT IS YOUR PROOF OF PRELIMINARY ELIGIBILITY

REQUEST FOR HEARING

Name:

Date:

Address:

Phone:

I hereby request an informal hearing to review the decision of (name of owner or managing agent) that I am ineligible for admission to (name of Section 8 project).

I believe this decision is wrong because:

(Briefly state your reasons here)

Signature

Send this form to:

Rhode Island Housing and Mortgage Finance Corporation

44 Washington Street

Providence, RI 02903

Attn: John Gordon

TO THE APPLICANT: Attach a copy of the denial notice to your Request for Review. Keep a copy of the completed form for your records.

1.11 Exhibit G

(Name of Section 8 Project)

(Address)

(DATE)

(Name of Applicant)

(Address)

Re: Admission to (Name of Section 8 Project)

Dear __:

I am writing to inform you that, based on new information, we have determined that you are not eligible for admission to (Name of Section 8). This decision superseded our earlier decision that you were eligible for admission.

The specific reasons for this decision are as follows:

(Specify reasons for the decision in detail, e.g. you are over income; you are not a "family" under HUD regulations; you have a history of failing to pay rent on time; your landlord states that you are overly noisy and have damaged his property; etc. The reasons must be specific enough to fully inform the applicant of the basis for the denial and to enable the applicant to make an informed decision as to whether to request a hearing to challenge the denial.)

You may request a review of this decision if you desire. If you decide to request a review, you must do so within fifteen days of the date of this letter. To request a review, complete the attached form and mail it to the address indicated on the form. You should keep a copy of the completed form for your records.

You may have additional legal rights if you believe that you are being discriminated against on the basis of race, color, creed, religion, sex, national origin, age or handicap. If you request a hearing to challenge this decision, you are not foreclosed from exercising any other avenues which may be available to you.

You may also be eligible for free legal assistance regarding this decision. If you wish, you may contact Rhode Island Legal Services, Inc., 56 Pine Street, Providence, RI 02903, phone (401) 274-2652 to see if you are eligible.

Very truly yours,

SAVE THIS LETTER. YOU WILL NEED IT IF YOU WANT TO APPEAL.

REQUEST FOR HEARING

Name:

Date:

Address:

Phone:

I hereby request an informal hearing to review the decision of (name of owner or managing agent) that I am ineligible for admission to (name of Section 8 project).

I believe this decision is wrong because:

(Briefly state your reasons here)

Signature

Send this form to:

Rhode Island Housing and Mortgage Finance Corporation

44 Washington Street

Providence, RI 02903

Attn: John Gordon

TO THE APPLICANT: Attach a copy of the denial notice to your Request for Review.
Keep a copy of the completed form for your records.

1.12 Exhibit H

REQUEST FOR HEARING

Name:

Date:

Address:

Phone:

I hereby request an informal hearing to review the decision of (name of owner or managing agent) that I am ineligible for admission to (name of Section 8 project).

I believe this decision is wrong because:

(Briefly state your reasons here)

Signature

Send this form to:

Rhode Island Housing and Mortgage Finance Corporation

44 Washington Street

Providence, RI 02903

Attn: John Gordon

TO THE APPLICANT: Attach a copy of the denial notice to your Request for Review. Keep a copy of the completed form for your records.

1.13 Exhibit I (English)

(Name of Section 8 Project)

(Address)

(DATE)

(Name of Applicant)

(Address)

Re: Waiting List Update at (Name of Section 8 Project)

Dear _____:

I am writing to determine whether you remain interested in admission to (Name of Section 8).

If you still are interested in admission to (Name of Section 8) then you must notify the undersigned within 90 days of the date listed above. If you fail to notify us of your continued interest within that time, your name will be removed from the waiting list and you will no longer be considered for an apartment at (Name of Section 8).

You should notify us in writing by using the attached form. Complete the form, detach it from this letter, and send it to this office by mail or in person within 90 days of the above date. You should keep a copy of the completed form for your own records.

If you are no longer interested in admission to (Name of Section 8), you do not have to contact us. Your name will be automatically removed from the waiting list after 90 days from the above date.

We look forward to hearing from you soon if you are still interested in admission to (Name of Section 8).

Very truly yours,

1.14 Exhibit J – (Spanish)

(Name of Section 8 Project)

(Address)

(DATE)

(Name of Applicant)

(Address)

Re: Lista de espera hasta la fecha en:

Estimado(a):

Le escribo para determinar si usted permanece interesado en la admision a (Name of Section 8).

Si usted todavia esta interesado en ser admitido(a) a (Name of Section 8) entonces usted debe notificar dentro de los noventa dias a partir de la fecha arriba mencionada, enviando el formulario adjunto firmado. Si usted no nos notifica que continua interesado dentro de ese tiempo su nombre sera borrado de la lista de espera y usted ya no sera considerado como interesado en adquirir un apartamento en (Name of Section 8).

Usted debe notificarnos escribiendonos y usando el formulario adjunto. Complete el formulario, unalo a su carta, y envíelo a esta oficina por correo o personalmente dentro de los noventa dias de la fecha antes mencionada. Usted debe mantener o guardar una copia de este formulario ya completado para sus records.

Si usted ya no esta interesado en ser admitido a (Name of Section 8), usted no tiene que ponerse en contacto con nosotros. Su nombre sera borrado automaticamente de la lista de espera despues de los noventa dias a partir de esta fecha.

Esperamos su pronta respuesta se aun esta interesado(a) en (Name of Section 8).

Su Seguro Servidor

NOTICE OF CONTINUED INTEREST IN ADMISSION

Name:

Address:

I am still interested in obtaining an apartment at (Name of Section 8). Please keep my name on the waiting list.

Date:

Signature

Return this form to:

(Name of Section 8)

(Address)

KEEP A COPY OF THIS LETTER FOR YOUR RECORDS

IT IS YOUR PROOF THAT YOU NOTIFIED US OF YOUR CONTINUED INTEREST
IN ADMISSION

825-RICR-40-00-1

TITLE 825 - HOUSING AND MORTGAGE FINANCE CORPORATION

CHAPTER 40 - RULES RELATIVE TO OTHER PROGRAMS

SUBCHAPTER 00 - N/A

PART 1 - RESIDENT SELECTION PLAN (825-RICR-40-00-1)

Type of Filing: Refile Capabilities

Department of State

Regulation Effective Date

Original Signing Date

Department of State Initials

Department of State Date