

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are contracts and form the basis of the legal relationship between the DMMHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require the DMMHA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the DMMHA may conduct additional inspections in accordance with DMMHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the DMMHA's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes the DMMHA's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the DMMHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a) (2)] or if there are serious or repeated violations of the lease agreement.

DMMHA has adopted a smoke free policy, which is exhibit 8-1 to this chapter.

DMMHA has implemented a minimum heating standard policy [Notice PIH 2018-19]. The policy is included in Part I of this chapter.

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the DMMHA's leasing policies.

8-I.B. LEASE ORIENTATION

After unit acceptance but prior to occupancy, a DMMHA representative will conduct a lease orientation with the family. The head of household, spouse and any family member over the age of 18 is required to attend.

Orientation Agenda

When families attend the lease orientation, they will be provided with:

- A copy of the lease

- A copy of the PHA's grievance procedure

- A copy of the occupancy rules

- A copy of the Family Obligations

- A copy of the PHA's schedule of maintenance charges

- A copy of the pamphlet *Protect Your Family From Lead in Your Home*

- A copy of "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights

- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

- A copy of the DMMHA's smoke free policy

Topics to be discussed and explained to all families include:

Applicable deposits and other charges – Tenant must pay the security deposit and first month's rent (pro-rated or not) prior to signing the lease.

Review and explanation of lease provisions

Unit maintenance requests and work orders

The DMMHA's reporting requirements

Review and explanation of occupancy forms

Community service requirements

Family choice of rent

VAWA protections

Information on reasonable accommodations

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the DMMHA, except for automatic renewals of a lease [24 CFR 966.4(a) (3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one DMMHA unit to another unit.

The lease must state the composition of the household as approved by the DMMHA (family members and any DMMHA-approved live-in aide) [24 CFR 966.4(a) (1) (v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

The head of household, spouse and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the DMMHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to DMMHA assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the DMMHA [24 CFR 966.4(a) (3)].

Modifications to the Lease Form

The DMMHA may modify its lease from time to time. However, the DMMHA must give residents at least thirty (30) days advance notice to all tenants and resident organizations of the proposed changes and an opportunity to comment in writing on the changes. The DMMHA must consider all comments before formally adopting the new lease form [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(1)(2)(iii)(E)].

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30-day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the proposed modifications or revisions and the reasons therefore, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

Other Modifications

The lease will be amended to reflect all changes in family composition.

Whenever a person is added to the lease or removed from the lease, a lease addendum will be drawn up to either add or remove the person. All household members 18 years or older will be required to sign the lease addendum.

A lease addendum will also be developed and signed when a family members turns 18 years old.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b) (5)]

The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the DMMHA. The family will be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

Residents must pay a security deposit to the PHA at the time of admission. The amount of the security deposit will be as follows:

<u>Size</u>	<u>Amount</u>
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Efficiency	\$ 265
One Bedroom	\$ 315
Two Bedroom	\$ 390
Three Bedroom	\$ 545
Four Bedroom	\$ 580
Five Bedroom	\$670

The DMMHA will hold the security deposit for the period the family occupies the unit. The DMMHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the DMMHA will return to the resident the amount of the security deposit (including interest earned on the security deposit for deposits held for 5 years or over), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal (i.e. ordinary) wear and tear, and other charges due under the lease by mailing to the forwarding address or complying with other delivery instructions provided by the resident.

The DMMHA will provide the resident with a written list of any charges against the security deposit and the specific reasons for such charges within 30 days of move-out by mailing to the forwarding address or complying with other delivery instructions provided by the resident or if no address or instructions are provided by mailing to the assisted unit. If the resident disagrees with the amount charged, the tenant must notify the DMMHA in writing within 14 calendar days from the date of the notice and the DMMHA will schedule a meeting to discuss the charges.

When a family transfers from one unit to another unit, the family will be required to pay the new security deposit for the new unit prior to receiving possession of the unit. Return of the security deposit or portion thereof from the vacated unit will be handled as set forth above in accordance with State law. The family will remain responsible for damages to the vacated unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b) (1)]

Families must pay the amount of the monthly tenant rent determined by the DMMHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the DMMHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

The tenant rent is due and payable on the first day of every month.

If a family's tenant rent changes, the DMMHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

The lease provides for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b) (3)].

The lease provides that late payment fees are not due and collectible until fourteen calendar days after the DMMHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b) (4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of its right for a hearing under the DMMHA grievance procedures. The DMMHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e) (8)].

If the family fails to pay its rent by the seventh business day of the month, and the DMMHA has not agreed to accept payment at a later date, a 14-day Notice to Cure will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the seventh business day of the month, a late fee of \$30.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the fee until the conclusion of the grievance process. When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$20.00 will be charged to the family. The fee will be due and payable 30 days after billing. When a family's personal check provided for any payment obligation is returned by the bank, the family will not be allowed to write personal checks in the future and will only be able to submit money orders or cashier's checks.

Maintenance and Damage Charges

The lease states the basis for the determination of charges to the tenant for maintenance and repair beyond normal (i.e. ordinary) wear and tear. [24 CFR 966.4(b) (2)].

The lease provides that charges for maintenance and repair beyond ordinary wear and tear are not due and collectible until thirty calendar days after the DMMHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b) (4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of its right for a hearing under the DMMHA grievance procedures. The DMMHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e) (8)].

When applicable, families will be charged for maintenance and/or repair of damages according to the DMMHA's current schedule. Work that is not covered in the schedule will be charged

based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage repair charges will be mailed and will meet the requirements governing notices of adverse actions. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the DMMHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

8-I.G. MINIMUM HEATING STANDARDS [Notice PIH 2018-19]

DMMHA is located in an area where local residential heating standards exist and will utilize those standards for public housing units. Therefore, DMMHA's minimum heating standards are as follows:

Minimum temperature capability:

When the winter temperature is below 60 degrees Fahrenheit, every dwelling unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68 degrees at a point of three feet above the floor and two feet from exterior walls in all habitable rooms, bathrooms and toilet rooms.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD regulations require DMMHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, DMMHA may require additional inspections, in accordance with DMMHA policy. This part contains DMMHA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease must require DMMHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by DMMHA and the family must be provided to the family and a copy retained in the tenant file.

Any adult family member may attend the initial inspection and sign the inspection form for the family.

Move-Out Inspections [24 CFR 966.4(i)]

DMMHA must inspect the unit at the time the family vacates the unit and must allow the family to participate in the inspection if he or she wishes, unless the family vacates without notice to DMMHA. DMMHA must provide to the family a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the restoration and repair work needed exceeds that for normal (i.e. ordinary) wear and tear.

Annual Inspections

Under the Public Housing Assessment System (PHAS), DMMHA is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)]. A copy of inspections will be kept in the unit and tenant file.

Special Inspections

DMMHA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- Reasonable cause to believe an emergency exists

Other Inspections

Building exteriors, grounds, common areas and systems will be inspected according to DMMHA's maintenance procedures.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j) (1)]

DMMHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of DMMHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

DMMHA will notify the family in writing at least two days prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for DMMHA to enter the unit.

Emergency Entries [24 CFR 966.4(j) (2)]

DMMHA may enter the unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, DMMHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the unit.

Scheduling of Inspections

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, it must notify DMMHA at least 24 hours prior to the scheduled inspection. DMMHA will reschedule the inspection no more than once unless the family has a verifiable good cause to delay the inspection. DMMHA may request verification of such cause.

Attendance at Inspections

The family is required to be present for move-in inspections [24 CFR 966.4(i)] and the family shall be provided with an opportunity to participate in the move-out inspection unless the family vacated without notice to DMMHA. There is no requirement for the family to attend other inspections; however, they may attend if they wish.

If no family member is present in the unit, the inspector will enter the unit, conduct the inspection and leave a notice of the inspection in the unit.

8-II.D. INSPECTION RESULTS

DMMHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

When conditions in the unit are hazardous to life, health, or safety, DMMHA will make necessary repairs or otherwise abate the situation.

Non-emergency Repairs

DMMHA will correct non-life-threatening health and safety defects within 28 days of the inspection date. If DMMHA is unable to make repairs within that period due to circumstances beyond DMMHA's control (e.g. required parts or services are not available, weather conditions, etc.) DMMHA will notify the family of an estimated date of completion.

The family must allow DMMHA access to the unit to make repairs.

Resident-Caused Damages

Damages to the unit beyond normal (i.e. ordinary) wear and tear will be billed to the family in accordance with the Schedule of Pre-Determined Maintenance Charges.

Repeated or excessive damages to the unit beyond normal (i.e. ordinary) wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

Residents whose housekeeping habits pose a health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, DMMHA will provide proper notice of a lease violation.

A re-inspection will be conducted to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a non-remedied violation of the lease and may result in termination of tenancy in accordance with Chapter 13.