



Oregon

Governor Kate Brown

Housing and Community Services

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Date: April 6, 2018

To: Housing Stability Council

From: Ryan Miller, Asset Management & Compliance Section Manager
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RE: Rent Increase Policy

MOTION: Move to approve the Rent Increase Policy as presented. Rent increase requests will be limited to not more than 5% for any resident household during a 12 month period within those programs that require approval. Increase requests greater than 5% will require Finance Committee approval within OHCS.

Background and Trends

In March we began a discussion with the Housing Stability Council around current trends and activity within the OHCS portfolio across funding sources. The agency has seen an increase in resident complaints and resident advocate communication concerning potential displacement and financial hardship resulting from rent increases implemented by Owners/Agents.

Areas of concern which continue to be identified due to market conditions and the current need for affordable housing:

- Rent increase requests of 10% or higher.
- Multiple rent increase requests within a 12 month period.
- Lack of affordable options for residents to relocate.
- Long waiting lists of applicants who are willing to pay a higher rent than a current resident in an affordable unit.
- Utilizing energy consumption model utility allowance calculation method when transitioning from the traditional PHA calculation method, which then results in a lower utility allowance overall that could potentially increase the resident's out of pocket rent.
- Requests for rent increases submitted to OHCS prior to initial occupancy (for example, prior to the form 8609 issuance on the LIHTC program, or the property financing has not been closed through multifamily development).
- Rent increase request during lease up exceeding the amount shown in the proforma submitted during underwriting.
- Lack of consideration of expiring programs on a property and how these changes will affect the rents overall when other restrictions are still in place.

Challenges such as these are why staff are looking to provide a framework and clarity for requests with rental increases given the current market trends. OHCS has engaged stakeholders – including property owners, consultants, Public Housing Authorities and tenant advocates - and continues to do so around the policy to be considered for approval. We are striving for a balance between the success and financial viability of the property and the needs of low-income residents.



Policy Requirements and Process

Under current statutory and regulatory policy, OHCS has the right to approve each property's rent structure at lease-up, and to pre-approve all rent increases throughout the affordability period per each of OHCS's multifamily programs. For properties with rent restrictions, OHCS has discretion to approve or disapprove of rent increases to the maximum allowable.

To establish additional clarity and certainty, OHCS proposes a new procedure for considering rent increases in our portfolio properties. All requests will be subject to the same guidelines and review criteria, as outlined below. The requested rent increase must be for actual rents that will be charged at the property per unit type (type of income restrictions, OHCS program, and bedroom size) from the effective date of the new rents forward until the next change is approved (not more than once during a 12 month period). Retroactive rent increase requests will not be considered. Properties charging rents that have not been approved by OHCS will be considered to be in noncompliance until a request for rent increase is submitted, approved; and any required corrective action has been taken. All increase requests must also meet other State and/or Local laws as applicable.

Written Request Guidelines

Rent increase requests will need to be submitted to the OHCS-Asset Management & Compliance Section and follow the guidelines as outlined below. Further, only one request to adjust/increase rents per year will be considered. The written request must be submitted no later than 90 days prior to the intended implementation date and must include the following:

- Explanation for the request to increase rents.
- Comparison of the current rents with the proposed rents (broken down by unit size and applicable AMI). *HOME units must be indicated and shown separate from LIHTC indicating High or Low status.
- A copy of the current utility allowance source documentation and calculations.
- OAHTC calculations showing that the pass-through requirement is being met (as applicable).
- Explanation of how the increase will be implemented (for current as well as new residents).

Review Criteria

OHCS considers multiple criteria when reviewing a request to increase rents for a property. The requested rent adjustment/increase will be reviewed for the following:

- Reasonableness to area rent comparables.
- Reasonableness for the resident population.
- Compared to the current maximum rent limits for the property based on most restrictive funding source.
- Property's vacancy rate history.
- Property proforma and how the rents were forecasted at time of property development.

Increase Threshold and Approval

While increases for rent restricted properties may be permitted from time to time as HUD publishes median income limits, rent increases will be limited to a maximum of 5% during a 12 month period. Rent increases during lease up as shown in the proforma during underwriting will be permitted, but approval will still need to be received.

An increase request greater than 5% will require an enhanced level of review and approval from the OHCS Finance Committee. The OHCS Finance Committee is an internal committee of the agency that

meets weekly and is chaired by the OHCS Assistant Director of Housing Finance. The Director will review the Finance Committee recommendation and has discretion to approve. Additional information may be required by OHCS in order to review the property's financial viability and impact to current residents such as property financials and a current rent roll that shows all unit rents, rent subsidy, and household income.

If the information reviewed does not support the need for the requested increase, the request may not be approved, in part or in total. OHCS encourages the owner to avoid large annual increases that may bring undue financial burden to residents (rent to income ratio) or increase the property's turnover and vacancy rates. The resident lease and all notifications to the resident must meet all Federal, State, and local funding source regulations as applicable. If a rent increase is being implemented before lease renewal, the lease should contain language allowing for the rent adjustment/increase with proper notice.

If OHCS determines that the owner is charging rents that are above the approved amounts for the HOME, Bond, LIHTC program, or other funding sources the owner will be required to refund the excess rents to the residents and/or local housing authority. Proof of rent credit or refund will be required by OHCS. Refunding of rents does not satisfy other non-compliance reporting requirements (for example 8823's will still be required to be filed with the IRS).

OAHTC Program

Under the Oregon Affordable Housing Tax Credit (OAHTC) program, owners are required to pass through interest rate savings to the residents for the 20 year tax credit period. For example, units in a LIHTC property that are rent restricted to 60% area median income (AMI) can use the passthrough lower rents on some units to 50% AMI for the 20 year compliance period.

Specific to the OAHTC program, properties are eligible to submit a request to OHCS for an adjustment in rents after year 20 of the OAHTC period. After OHCS evaluates the need for the requested rent increase, per this policy the rents may be increased to a level to assure financial viability. In addition to the rent increase request information outlined earlier, the owner will need to submit a plan for implementation of the requested increase, as the increase may have a significant impact on the current residents of the property. The owner and OHCS will work together to assure the needs of both the property and residents are met.

Housing Choice Section 8 Vouchers and the LIHTC Program Guidance

If a resident is utilizing the Housing Choice Voucher (HCV) Section 8 program in a LIHTC housing unit the gross rent for the unit shall not exceed the Voucher Payment Standard as established by the Public Housing Agency (PHA) for the household's Voucher unit size.

It is the responsibility of the owner to contact the PHA prior to issuing a rent change notice to determine the Voucher unit size, payment standard, and utility allowance for each HCV household residing in the property. Regardless of the payment standard as established by the PHA, the rents should not be increased to an amount that the expense for the resident portion of the rent exceeds the PHA calculated amount based on the resident's income.