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Tenant Rights in Public & Subsidized Housing

What Is Public And Subsidized Housing?

Public housing is owned, operated and managed by your local Public Housing Authority (PHA). The U.S. Department of Housing and Urban Development (HUD) makes payments to PHAs to keep rental costs low for eligible tenants.

Subsidized housing, on the other hand, is generally owned, operated and managed by private individuals. The most common type of subsidized housing is Section 8 Existing Housing. Under Section 8, HUD or the PHA make payments directly to private landlords to subsidize the rent of eligible tenants.

Who Is Eligible For Public Or Subsidized Housing?

Low-income families and individuals are eligible. Low income means the gross annual income of the family or individual does not exceed 80% of the median income for the same sized household living in the same area. Other eligibility factors include whether the tenant (a) has unmet financial obligations in the past, such as rent or; (b) has a record of disturbing neighbors, destroying property, committing crimes or maintaining bad living or housekeeping habits that affect other tenants.

How Much Does An Eligible Tenant Pay For Rent?

PHAs are required to provide families with the option to elect annually whether to pay income-based rents or flat rents. HUD mandates that families must be given sufficient information to make an informed choice.

If you are 62 or older, you can determine your adjusted income by subtracting from your annual income $400 plus the amount by which your medical expenses exceed 3% of your total annual income. You can take an additional $480 deduction for each family member who is not the head of the household but is either younger than age 18, disabled, handicapped or a full-time student.

How Do I Apply For Public Or Subsidized Housing?

Contact the local PHA. If you are interested in subsidized housing, contact your local HUD office to get a list for your county. Once you have the list, call the apartment owner or manager and apply. Many subsidized buildings for the elderly have waiting lists, so it is best to apply before you actually need the apartment. If you are eligible for public housing, you will be notified of the approximate date you can move in.

If you are eligible for Section 8 Existing Housing, you will receive a "Certificate of Participation." You have 60 days (with some exceptions) from the time you receive this certificate to sign a lease with a Section 8 participating landlord. If you are not eligible, you must promptly be given a written notice of the decision denying assistance. The notice must state briefly the reasons you were denied and must tell you that you can request an informal review and how to do it.

What Are The Landlord's Duties Or Obligations To The Tenant?

Landlords are required to follow all applicable building and housing codes and HUD regulations which affect health and safety; to make necessary repairs to the building; to keep common areas clean and safe; and to maintain all electrical, plumbing, sanitary, heating, ventilating fixtures and appliances. Other landlord duties are described in the lease.

What Are The Tenant's Duties And Obligations?

As a tenant, only you and your household (as described in the lease) can live in your apartment. You must follow necessary and reasonable PHA regulations, keep your apartment clean and safe and use and operate all electrical and plumbing fixtures properly. Your household members and guests cannot damage or remove any part of the apartment or building. If a guest or anyone in your household damages anything, you must pay for or repair any damage, other than ordinary wear and tear. In addition, tenants cannot take part in any drug-related criminal activity on or near the premises. When your lease ends, you must notify the PHA before you leave.

What If I Want To Terminate My Lease?

If you violate your lease or leave your apartment before the lease is up, the PHA may refuse to give you another certificate to move to another unit. Most leases for public or subsidized housing run for one year. If you think you may need to leave before your lease is up, it is very important to follow the terms of the lease regarding your leaving. You should also be aware that leaving before your lease ends might mean that you will not be able to live in other Section 8 or public housing.

What Reasons Can Be Used To Evict A Tenant?

If you are a public housing tenant, you can be evicted for only serious or repeated violations of the lease, such as not paying your rent, not fulfilling tenant obligations or for other good cause. If you are a Section 8 tenant, you can be evicted for serious or repeated violations of the lease, violations of federal, state or local law that apply to tenants or good cause.

What Rights Do I Have If I Am Threatened With Eviction?

If you live in public housing, the PHA must give you an eviction notice. The notice must state a) the specific reasons why you are being evicted;(b) that you can fight the eviction if the PHA tries to enforce the eviction notice in court; and c) the date you must leave your residence. If you're threatened with eviction as you did not pay your rent, you cannot be evicted until 14 days after you receive the notice. If you are being evicted for any other reason, you cannot be evicted for 30 days.

In Section 8 Existing Housing, the landlord must give you a notice, which does not take effect until 3 days after you receive it. The notice must tell you to leave the premises and explain that if you do not leave, an eviction action will be filed. The notice must also tell you that if you are not sure of your legal rights, you should get legal help. The landlord must also notify the PHA in writing of the eviction at the same time you are notified. The PHA/landlord cannot enforce an eviction notice without going to court.

Do I Have Grievance Rights In Public Housing?

Yes. You can file a grievance with the PHA about any PHA action, or failure to act, that violates your lease, or PHA regulations, which hurt your tenant's rights, welfare or status.

The first step is to make an informal complaint to the PHA office. By doing this, you may be able to solve the problem without a hearing. If you want a hearing, you must submit a written request to the PHA within a reasonable time after you receive the summary.

Your request must state the reasons for the grievance and what you want the PHA to do. The hearing officer must send you a written notice of the time, place and procedures governing the hearing. Before the hearing, you have a right to look at any PHA documents, including records and regulations that are directly relevant to the hearing. At the hearing, you have the right to (a) be represented by a lawyer; (b) present evidence and arguments to support your complaint; and (c) cross-examine all witnesses who are testifying by or on behalf of the PHA or management. The PHA must abide by the hearing officer's decision, but you can challenge the decision by going to court.

Pro Seniors helps older Ohioans solve legal and long-term care problems and fight Medicare fraud. Our Legal Helpline provides free legal information and advice for Ohio residents aged 60 and older.

This fact sheet provides general information, not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Helpline or consult an attorney in elder law.

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