

MM ~~AA~~ - general

4/7/76

Letter re: HUD
Answers to M's interrogatories #2 + #7

~~Answers attached~~

+ answers attached

Pg # 4

MM000008L

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April 7, 1976

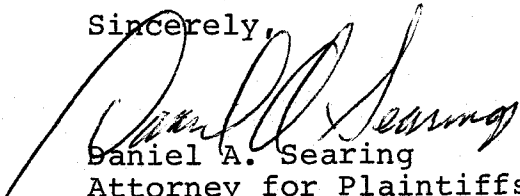
Hon. David D. Furman
 P.O. Box 788
 New Brunswick, New Jersey 08903

Dear Judge Furman:

Please find enclosed originals of defendants' answers to plaintiffs' interrogatories numbered 2 (two) and 7 (seven).

These are submitted pursuant to the permission which you granted on the last day of trial.

Sincerely,



Daniel A. Searing
 Attorney for Plaintiffs

DAS:km

FIELD OFFICE:

NCDH IS A PUBLICLY-SUPPORTED ORGANIZATION, AND CONTRIBUTIONS ARE TAX DEDUCTIBLE.

HOW MANY UNITS MAY BE ASSISTED IN ANY STRUCTURE OR PROJECT?

Up to 100 percent of the units in any new construction or substantially rehabilitated project may be assisted. To encourage a broad economic mix of families, however, HUD will give preference to those projects in which 20 percent or fewer of the units receive assistance. This preference does not apply to projects with 50 or less units or fewer, or those designed specifically for the elderly or handicapped.

WHAT IS THE FUNCTION OF THE LOCAL GOVERNMENT IN THIS PROGRAM?

The unit of general local government has an opportunity to review all complete proposals for new and substantially rehabilitated dwelling units and all complete applications for the use of existing housing. Where there is a HUD-approved housing assistance plan in effect, review is for consistency with that plan. Where there is no plan, the local government has an opportunity to comment upon, or provide information concerning the need for housing assistance and the availability of local facilities and public services to serve the proposed housing.

HOW DOES AN OWNER OR DEVELOPER PARTICIPATE IN THE SECTION 8 PROGRAM?

Owners and developers may submit preliminary proposals for new construction or substantial rehabilitation in response to invitations for Preliminary Proposals published in local newspapers by HUD. Owners of existing units may obtain additional information about participation by communicating with the nearest local housing agency or HUD field office listed on the back page.

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Chicago, Illinois 60606
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1100 Commerce Street
Dallas, Texas 75202
Arkansas, Louisiana,
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Columbus, Ohio; Milwaukee, Wisc.

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Dallas, Tex.; Oklahoma City, Okla.;
San Antonio, Tex.; New Orleans, La.;
Little Rock, Ark.

Area Offices:
Kansas City, Kans.;
St. Louis, Mo.; Omaha, Nebr.

NO AREA OFFICES
Insuring Offices:
Casper, Wyo.; Helena, Mont.;
Fargo, N.Dak.; Sioux Falls, S.Dak.;
Salt Lake City, Utah

Area Offices:
San Francisco, Calif.;
Los Angeles, Calif.

Area Offices:
Seattle, Wash.; Portland, Oreg.

term (including renewals) is generally 20 years; in the case of a project owned by, or financed by a loan or loan guarantee from a State or local agency, the maximum term may be 40 years. This maximum is established on the basis of the amount of capital expenditures reasonably required for the project, the reasonable rate of amortization for the financing, and the approved Contract Rents.

WHAT FAMILIES ARE ELIGIBLE TO PARTICIPATE IN THE PROGRAM?

The program helps "lower-income" and "very low-income" families. A "lower-income" family is one whose adjusted income does not exceed 80 percent of the median income in the area. A "very low-income" family is one whose adjusted income does not exceed 50 percent of the median income in the area. The adjustments take into account the size of the family, among other factors.

WHAT DO THESE CLASSIFICATIONS MEAN TO THE OWNER?

For new construction or substantially rehabilitated units, an owner is required to rent 30 percent of the units to very low-income tenants during the initial rent up, and to exercise his best efforts to maintain that ratio during the Contract period.

WHAT ABOUT SINGLE PEOPLE LIVING ALONE?

If the income is within the limits defined by HUD, a "family" in this program may be a single person 62 or older, or a handicapped or disabled person as defined by law, or a displaced person, or the remaining member of an eligible tenant family. Two or more elderly, disabled or handicapped persons living together, or one or more such individuals living with another person needed to care for them, are also eligible for housing assistance in this program.

HOW ARE THE SUBSIDIES COMPUTED?

As its share of the rent, the family pays between 15 and 25 percent of its gross income, depending on income, number of minors, and medical and child care expenses. The housing assist-

ance payment to the owner is the difference between the family share and the Contract Rent for the units, and is paid monthly on behalf of the family. The family's share of the rent may be adjusted up or down, depending on any changes in the family's circumstances (with appropriate adjustment in the housing assistance payment).

HOW OFTEN ARE THE FAMILY CIRCUMSTANCES REVIEWED?

The owner reviews the circumstances of families occupying new and substantially rehabilitated units at least annually. The PHA conducts the annual review of circumstances of families occupying existing units. Reviews for elderly and handicapped families take place every two years.

WHAT HAPPENS IF A UNIT UNDER CONTRACT IS VACANT?

For newly constructed or substantially rehabilitated units, if a unit is not leased on the effective date of the Contract, the owner may receive 80 percent of the Contract Rent for a period not to exceed 60 days, provided the owner has complied with his approved fair housing marketing plan, has taken all feasible actions to secure a tenant and has not rejected any eligible applicant except for good cause. If an eligible family vacates an occupied unit, the owner may receive 80 percent of the Contract Rent for a vacancy period not to exceed 60 days, provided the owner promptly notifies HUD of the vacancy, or pending vacancy, together with the reasons therefore, and continues to take affirmative action to fill the vacancy. Payments for vacant units will not be made if the owner fails to follow HUD procedures requiring that he give written notice to a family he wishes to evict, or if the owner has evicted the family in violation of the lease or applicable law.

For existing units, a vacancy payment may be made in the same ratio and under the same conditions as those for new construction when a unit occupied by an eligible family has been vacated in violation of the lease, except that the payments will be made for a maximum of 60 days or the expiration of the lease, whichever is sooner.

among other things, that upon satisfactory completion of the project, a HAP Contract will be executed for the units to be occupied by eligible families.

WHAT KIND OF FINANCING IS AVAILABLE?

While the Section 8 program does not provide construction or permanent financing, it provides long-term commitments of housing assistance payments pursuant to Housing Assistance Payments contracts which can be pledged as security for mortgage loans or loans obtained through the issuance of tax-exempt notes or bonds by State or local public agencies. This pledge may be used with any type of financing, including a HUD/FHA insured mortgage. HUD must approve any financing, however, that pledges the Agreement or the HAP Contract as security for any loan or obligation.

HOW MUCH RENT CAN THE OWNER COUNT ON?

Generally, the Contract Rent plus the allowance for any utilities paid by the family, may not exceed the HUD-established Fair Market Rent for the housing area in which the units will be located. In certain cases, the Fair Market Rent may be exceeded by up to 10 percent: for new construction and substantial rehabilitation where HUD field office directors determine that special circumstances so warrant; and for existing units if the PHA certifies that such higher rents are reasonable, specifies the factors upon which that determination is based and secures HUD approval. The Fair Market Rent may be exceeded by up to 20 percent upon approval by the HUD Assistant Secretary for Housing Production and Mortgage Credit, if he determines that special circumstances so warrant or that higher rents are necessary to implement a local housing assistance plan. In all cases, Contract Rents must be determined to be reasonable in relation to the quality, location, amenities, and the management and maintenance services for the units.

CAN THE CONTRACT RENT BE INCREASED DURING THE TERM OF THE CONTRACT IF THE OWNER'S EXPENSES INCREASE?

Yes. Contract rents for new construction and substantial rehabilitation are adjusted annually by applying an Automatic Annual Adjustment Factor. This is determined by HUD at least once a year and published in the *Federal Register*. If the utilities are paid directly by the family, the factor is reduced accordingly. Special additional adjustments may be approved by HUD for increases in the actual and necessary expenses of owning and maintaining the contract units resulting from substantial general increases in real property taxes, utility rates or similar costs (i.e. special assessments and utilities not covered by regulated rates), but only to the extent such general increases are not compensated for by the Automatic Annual Adjustment. For existing units, an annual adjustment is permitted on the anniversary date of the lease, upon request to the PHA by the owner (provided such request is accompanied by a certification signed by the owner and the tenant that the unit is in decent, safe and sanitary condition and otherwise in compliance with the lease), not to exceed the percentage change in the applicable Fair Market Rent. Special adjustments may be permitted, subject to HUD approval and effective on the date the owner may legally terminate the tenancy. Such adjustments may reflect increases in actual and necessary expenses resulting from general increases in real property taxes, utility rates or similar costs to the extent that the owner clearly demonstrates that such increases have increased the owner's operating costs and are not compensated for by annual adjustments. In such cases the owner must submit a financial statement supporting the increase to the PHA. The adjustments discussed above may not, however, cause the rents of Section 8 units to be materially different from the rents charged for comparable unassisted units.

WHAT IS THE MAXIMUM TERM OF A HAP CONTRACT?

The term of a HAP Contract for existing units is concurrent with the lease (i.e., not less than one year nor more than three, subject to any provision permitting termination). If, however, the family remains in occupancy under the same terms and conditions of its original lease, the Contract may be extended up to five years. For new or substantially rehabilitated units, the maximum