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# Resident Selection Plan

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### 1. Introduction

This policy is to be used for the community listed above, herein referred to as “The Community”. The procedures used for selection of residents shall be implemented in compliance with the Department of Housing and Urban Development (HUD) Handbook 4350.3, Rev-1, Chg-3 as amended, and all other applicable federal statutes and regulations, including the following guides:

- The Federal Register
- Federal Fair Housing Laws
- State of South Dakota Fair Housing Laws
- HUD 4350.3 Rev-1, Chg 4 Owner’s Handbook
- The Federal Fair Credit Reporting Act and other state and local credit reporting laws

### 2. Non-Discrimination

The management agent shall comply with all federal, state and local fair housing and civil rights laws and with all equal opportunity requirements as required by law, including without limitation HUD administrative procedures. Federal laws forbid discrimination based on race, color, creed, religion, sex, age, handicap, familial status, or national origin. Discrimination against a particular social or economic class is also prohibited (for example: welfare recipients; single parent households, etc.)

Access to HUD programs is open to all eligible individuals and families regardless of actual or perceived sexual orientation, gender identity or marital status. These requirements apply to all aspects of tenant relations including without limitation: accepting and processing applications, selecting residents from among eligible Applicants on the waiting list, assigning units, certifying and re-certifying eligibility for assistance and terminating tenancies.

### 3. Eligibility for Rental Assistance

Applicants seeking rental assistance in subsidized rental developments must meet the following eligibility factors:

#### 3.1.1. Eligibility for Rental Assistance

Elderly/Disabled Apartment Community - Households must meet eligibility criteria for the specific apartment community; this community restricts occupancy to:

- i. Elderly Households of two or more persons with at least one person who is 62 years of age or older;
- ii. A Single Person who is 62 years of age or older;
- iii. A household whose head, spouse or sole member is disabled or handicapped.

#### 3.1.2. Current Income Limits

The household’s annual income may not exceed the applicable Income Limit for the community, which is determined to be the 50% Area Median Income level (Very low Income). On the first of each month, an review is completed to assure the Fifth Avenue complies with the 40% ELI Income Targeting Requirement. A copy of the current limits will be provided upon request.

- The Applicant agrees to pay the portion of rent required by the subsidy program under which the Applicant will be admitted.
- The unit must be the Family’s only residence.
- At the time of admission, the Applicant may not be receiving Section 8 assistance on another housing unit.
- Applicants cannot have net family assets that exceed \$100,000 (adjusted annually for inflation); and/or the family has a present ownership interest in, a legal right to reside in,



and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

#### 3.1.3. Citizenship Requirement

Household must meet citizenship or immigration status requirements as follows:

- a. A Family shall not be eligible for assistance unless every member of the Family residing in the unit is determined to have eligible status, with the exception noted herein. Despite eligibility of one or more Family member, a mixed Family may be eligible for pro-rata assistance
- b. The applicant must meet the requirements regarding citizenship according to Section 214 of the Housing and Community Development Act of 1980. Citizenship information will be verified, as appropriate and required, through the Department of Homeland Security and the SAVE system.
- c. Applicants for assistance must be given notice of requirement to submit evidence of citizenship or eligible immigration status at time of application. All family members, regardless of age, must declare their citizenship or immigration status.
- d. Noncitizens (except those age 62 and older) must sign a Verification Consent Form and submit documentation of their status or sign a declaration that they do not claim to have eligible status. Noncitizens age 62 and older must sign a declaration of eligible immigration status and provide a proof of age document. U.S. citizens must sign a declaration of citizenship.

#### 3.1.4. Income and Asset Reporting Requirement

Each household member must provide consent for verification of all sources of income or other information relative to occupancy in the community.

#### 3.1.5. Student Status Reporting Requirement

Each household member must provide verifiable information regarding their status as a student

#### 3.1.6. Social Security Number Requirement

- Each member of the household must provide a valid social security card or evidence of application for the card. Applicants 62 years of age or older on January 31, 2010 **and** previous participants of HUD assisted housing on or before January 31, 2010, are exempt from disclosure of a social security card as described above. If the applicant meets the exception requirements for SSN disclosure and verification, documentation will be requested from the property where the initial determination of eligibility was determined. This information will be retained in the applicant's file.
- Applicants must disclose Social Security numbers (SSNs) for all family members. Documentation must be provided, such as the original Social Security card. If it has been determined that the applicant is otherwise eligible for admission into the property, and the only outstanding verification is that of the SSN, for a household member under the age of six, an applicant will be permitted to move into the unit and must provide verification within 90-days for this member. If after 90-days the tenant is unable to provide verification, owner must grant an additional 90-days if it is determined that the tenant's failure to disclose is due to circumstances beyond the tenant's control. If the outstanding verification of SSN is for a household member over the age of six, the applicant may retain his or her place on the waiting list for a period of 90-days during which the applicant is trying to obtain documentation of SSN. Applicants should be aware that available units will offered to the other eligible households during this period of time; units will not be "held" for applicants while they await their documentation. After 90-days, if the applicant is unable to disclose the SSNs of all non-



exempt household members, the applicant will be determined ineligible and removed from the waiting list.

## 4. Enterprise Income Verification System (EIV)

As of January 2010, HUD has made the use of the Enterprise Income Verification (EIV) mandatory for all HUD assisted properties. This system is an online system that can be used to compare the income and person information provided by residents to information provided to several databases (including the National Directory of New Hires and Social Security). This information will be used to determine if there are any instances of fraud, misreported or under-reported income. Applicants and Residents will be given a copy of HUD's EIV and You Brochure at each certification, which will provide further detail on the uses and purposes of the EIV system.

### 4.1.1. Existing Tenant Search

EIV will be accessed at admissions to determine if an applicant is currently receiving assistance at another HUD project. This process in the Enterprise Income Verification System is done by using an "Existing Tenant Search" in the EIV system. If an applicant or any member of the applicant's household is receiving assistance at a Multifamily Housing or Public and Indian Housing location, it will be discussed with the applicant, giving them the opportunity to explain the circumstances. The applicant is permitted to apply but is prohibited from receiving subsidy from two locations. Management would then follow up with the PHA or Management to confirm the applicant's program participation, if necessary, depending on the outcome of the discussion with the applicant.

### 4.1.2. EIV Use at Recertification

EIV Use at Recertification - EIV will be accessed at annual recertification for all residents to determine if the income reported matches the information stored in the EIV system. If there are discrepancies in EIV compared to the information reported by the resident, Management will independently verify the information to determine if there is an error in reporting, including under-reported or non-reported income. If it is found that the resident misreported income or under-reported income, the resident may be asked to repay the difference in rent that occurred due to the misrepresentation or under-reporting.

### 4.1.3. HUD 9887 and 9887A Privacy Act

Residents of HUD assisted housing must sign form HUD 9887, Notice and Consent for Release of Information and 9887-A, Applicant's/Tenant's Consent to the release of information. All residents will consent to management obtaining information to verify employment and/or income for determining eligibility. Management accesses the Enterprise Income Verification system (EIV). EIV is a web-based computer system containing employment and income information on individuals participating in HUD's rental assistance programs.

## 5. Income Limits

The household's annual income must be under the HUD established income limits for admission. HUD sets income limits for each county or metropolitan statistical area (MSA) by family size. These limits are updated annually.

- a. An applicant is considered ineligible if :
  - The household's annual income is greater than the applicable income limit.
  - The amount the household would be required to pay using the HUD rent formula equals or exceeds the Gross Rent for the unit.
  - The applicant will continue to receive assistance on another unit at the time of admission.



- b) ADMITTING INELIGIBLE HOUSEHOLDS - Any ineligible families admitted under the following limitations must pay contract rent. Admitting households who are not income eligible is only applicable if the HAP Agreement was signed before October 1, 1981. For these projects, owners may admit income ineligible families up to the maximum number of units specified in the HAP Contract.
- Actions Owners must take before admitting ineligible:
    1. Admit all available eligible applicants, unless there is good cause for denying them assistance.
    2. Take all reasonable steps to attract eligible families, including using marketing efforts likely to attract eligible applicants.
    3. Place in the files of any ineligible tenants who are admitted a written certification that the steps required in 1 and 2 above have been completed.
- c) If the HAP Agreement was signed on or after October 1, 1981, owners MAY NOT admit income ineligible families.

THE COMMUNITY was opened prior 10/1/1981, so it is eligible to admit households who are not income eligible.

## 6. Project Specific Requirements

This community is governed as a HUD Section 8 Project, defined as the following in 24 CFR Part 5, Subpart D—Definitions for Section 8 and Public Housing Assistance Under the United States Housing Act of 1937. Authority: 42 U.S.C. 1437a and 3535(d). **Source:** 61 FR 5665, Feb. 13, 1996, unless otherwise noted. Please refer to the Definitions section of this resident selection plan for definitions under Section 8 as defined in 24 CFR Part 5, Subpart D.

This project is designated as an Elderly Only community, where all applicants must be 62 years of age or older at admissions.

## 7. Violence Against Women Act

The Violence Against Women and Justice Department Reauthorization Act of 2005 protects residents who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them. In accordance with the Violence Against Women Act (VAWA), Management will not penalize victims of domestic violence, stalking, dating violence, or rape. Some key points provided in the Act include:

- A potential resident has the option to certify they were the victim of domestic violence and may be allowed to be admitted even with poor credit and poor landlord evaluations if he/she can show those negative factors were caused by domestic violence.
- It assured that victims of domestic violence, sexual assault, etc., have access to the criminal justice system without facing eviction.
- Where someone is abusive to other members of the household, only the abuser may be evicted. Furthermore, the standards for eviction due to imminent threat have been strengthened.
- Residents in assisted housing who face violence may be allowed early lease termination for a matter of safety.

Management will carefully evaluate abuse claims as to avoid conducting an eviction based on false or unsubstantiated accusations. Nothing prevents a victim who has committed a crime or violated a lease from being denied, evicted or terminated. "Notice of Occupancy Rights under the Violence Against Women Act" and "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking" forms will be provided with signing of the lease, time of eviction or when a potential tenant is denied occupancy. These forms and the "Emergency Transfer Plan for Victims of Domestic Violence" form and "Emergency Transfer Request" form will also be made available annually at time of certification.



## 8. Limited English Proficiency

On August 11, 2000, the President signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." The Executive Order requires all owners and agents to identify any need for Section 8 housing assistance to those with limited English proficiency (LEP), and develop and implement a system to provide Section 8 housing assistance so LEP persons can have meaningful access.

Management will provide for such meaningful access consistent with, and without duly burdening, the fundamental mission of the property. We will work to ensure that people who need housing assistance are provided meaningful access to the HUD Section 8 program.

## 9. Policies to Comply with Section 504 of Rehabilitation Act of 1973

- Section 504 prohibits discrimination based upon disability in all programs or activities operated by recipients of federal financial assistance. A Reasonable Accommodation as defined by the Fair Housing Act is any accommodation by management in rules, policies (including acceptance of assistance animals as an exception to a "no pets" rule), and practices of services to give a person with a disability an equal opportunity to use and enjoy a dwelling unit or common space. It is your responsibility to inform management of any situation where a Reasonable Accommodation is needed.
- Reasonable Accommodations should be submitted in writing. If unable to provide the request in writing, please notify management. Reasonable structural modifications to units and/or common areas that are needed by applicants and tenants with disabilities may be approved and funded by the project, unless these modifications would change the fundamental nature of the project or result in undue financial and administrative burdens.
- Fair Housing Act Amendment of 1988 prohibits discrimination on the basis of race, color, religion, gender, national origin, disability or familial status. We do not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs and activities

## 10. Eligibility of Single Persons

Eligible Single Persons include those persons 18 years of age or older or a Single Person under 18 years of age who has been emancipated under state law.

## 11. Student Eligibility

The eligibility restrictions imposed on students enrolled in institutions of higher education are as follows:

- Section 8 assistance shall not be provided to any individual who:
  - Is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential; and
  - Is under 24 years of age; and
  - Is not a veteran of the United States military; and
  - Is not married; and
  - Does not have a dependent child; and
- Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C.1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and
- Is not living with his or her parents who are receiving Section 8 assistance; and



- Is not individually eligible to receive Section assistance or has parents (individually or jointly) who are not income eligible to receive Section 8 assistance.
- For a student to be eligible independent of his or her parents (where the income of the parents is not relevant), the student must demonstrate the absence of, or his or her independence from parents. Students must meet all of the following criteria to be eligible for Section 8 assistance. The student must:
  1. Be of legal contract age under state law;
  2. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, or meet the U.S. Department of Education's definition of an independent student. The student must meet one or more of the following criteria:
    - a) Be at least 24 years old in the year that assistance is sought
    - b) Be an orphan or a ward of the court through the age of 18.
    - c) Be a veteran or currently serving on active duty
    - d) Have legal dependents other than a spouse
    - e) Be a graduate or professional student
    - f) Be married or separated but not divorced
    - g) Unaccompanied youth who is homeless or self-supporting and at risk of being homeless
- The individual must not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations.
- The individual must obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. The certification is required even if no assistance will be provided.
- This law will not affect students residing in section 8 units with his or her parents or who reside with parents who are applying to receive section 8 assistance.
- a. For section 8 programs, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education, shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income. If the student's financial assistance in excess of tuition makes the student ineligible for section 8 assistance, the student cannot receive section 8 assistance.

## 12. Application Requirements

Anyone who wishes to secure housing must fully complete the application form provided by management. Applications can be obtained from the office located at 506 S 1<sup>st</sup> Street or online at [aberdeenapartmentrentals.com](http://aberdeenapartmentrentals.com). The information provided must contain enough information for management to make an initial determination of the income eligibility of the household; the size of unit desired or needed and sufficient information to screen Applicant's prior landlord history. Applicants must consent to management's requirement to secure a credit and criminal background history and must provide sufficient information to enable management to secure such reports. Applicants are notified of the requirement either to submit evidence of citizenship or eligible immigration status or to choose not to claim eligible status. In addition to the application, applicants are offered the opportunity to complete a SUPPLEMENT TO APPLICATION FOR FEDERALLY ASSISTED HOUSING HUD-92006. This form gives applicants the option to identify an individual or organization





that may be contacted and the reason(s) the individual or organization may be contacted. The applicants, if they choose to provide the additional contact information, must sign and date the form.

### 13. Notification of Changes to Resident Selection Plan

When the management for the community updates or changes the resident selection plan, the following actions will be taken to notify both residents and applicants of the changes to the resident selection plan.

- The updated Resident Selection Plan will be posted in the management office
- A letter will be mailed to all residents and applicants notifying them of the change to the resident selection plan and informing them that they can review the changes at the management office if they are so inclined.

### 14. Changes in Information for Applicants

- **Income Changes:** If an Applicant's income changes to an amount which is no longer eligible under the limitations of the assistance program by the time the application reaches the top of the waiting list, written notice will be given advising the Applicant that: (1) they are not presently eligible for assistance under the Section 8 program; (2) the Applicant could become eligible if the household income decreases, the number of household members changes, the Income Limit changes, or HUD grants an exception to the Income Limits, and (3) asks whether or not the Applicant wishes to remain on the waiting list.
- **Preference Eligibility:** occasionally households on the waitlist who did not qualify for a preference when they applied will experience a change in circumstances that makes them eligible for a preference after the initial date of their application. In such cases, it is the responsibility of the applicant to inform management so that their change in status may be verified and the waitlist can be updated accordingly. To the extent that the verification process determines that the household **does** now qualify for a preference, the waitlist will be updated to reflect this.

### 15. Determining Unit Size at Move In

The management agent must balance the need to avoid overcrowding with the need to make the best use of available space and to avoid unnecessary subsidy. To determine how many bedrooms a Family may have, the management agent shall count:

- a. all full-time members of the household;
- b. children who are away at school but live with the Family during school recesses;
- c. children who are subject to a joint custody agreement but live in the unit at least 50% of the time;
- d. an unborn child or children who are in the process of being adopted or whose custody is being obtained by an adult;
- e. foster children or children who are temporarily absent due to placement in a foster home; and
- f. Live-in attendants.

The management agent shall not provide bedroom space for persons who are not members of the household, such as adult children on active military duty, permanently institutionalized Family members or visitors.

### 16. Over-Crowded or Underutilized Units

Units, which are smaller or larger than needed by the Applicant, may be assigned if doing so will not cause serious overcrowding and no units of appropriate size are available. In such cases, the Family must agree to move to the correct sized unit, at its own expense, when one becomes available. After move-in, if a unit becomes overcrowded or under-used because of changes in household



composition, the management agent will require the Family to move to an appropriately sized unit when one becomes available or pay the HUD-approved market rent if they remain in the same unit.

## 17. Unit Transfer Policy

If a Head of Household and/or family at time of occupancy is knowingly placed with a unit specifically for:

- a. a larger household size and/or
- b. specific needs for disabled/handicap (i.e. hearing, sight, or mobility impaired)
- c. The Head of Household and its members will transfer to a different unit of appropriate size within an approved time frame when such unit becomes available so that the specific needs or the larger, smaller, or disabled unit can be for a Head of Household and/or family with needs that said unit will meet.
- d. A Head of Household and/or family may transfer units when:
  - 1) the transfer is necessary to make housing available to another household in need
  - 2) The transfer is necessary due to a disability and this necessity is verified by a medical professional
  - 3) the transfer is necessary due to household composition changes (reference HUD Handbook 4350.3, Section 7-16, A and B guidelines)
- e. A transfer request **will not** occur for the following:
  - a. Any transfer requests prior to the first anniversary of move in, e.g. there will be no transfer requests entertained during the first year, unless said request is related to an approved reasonable accommodation request.
  - b. new unit features (unless related to an approved reasonable accommodation request)
  - c. new location for scenery or view (unless related to an approved reasonable accommodation request)
  - d. Perceived convenience without any approved reasonable accommodation request.

## 18. Preferences

Management will observe preferences listed below, prioritized in the order of the list:

- a. **Accommodation for Existing Residents:** Requests for accommodation from existing residents requiring unit transfers will take priority over all waiting list Applicants. Accommodation results when a third-party-verified handicap or disability requires a change or repairs which make it easier for the existing resident to reside in the community.
- b. **Units Designed for Use by Handicapped/Disabled Residents:** Applicants requesting units with specifically designed features for handicapped/disabled individuals will be provided preference for units that have been set-aside for this use.
- c. **Transfers for Existing Tenants:** Administrative transfers for households who are over or under housed shall be granted preference over other households on the waitlist. Households requiring a transfer due to over or under housed family size shall be required to accept a transfer within the same building in the development when a unit of the required bedroom size becomes available; optional accommodations for the required bedroom size shall be offered to such residences in buildings other than their current residence (buildings still included in **The Community** ) when and if units of the required bedroom size become available, but **The Community** will not make such transfers mandatory due to the undue burden that could be associated with



moving to another location. All such transfers shall be granted preference over new applicants.

- d. **Extremely Low Income Households:** Extremely Low Income Households, defined as households with income not exceeding 30% of the area median income (AMI) established by HUD and periodically updated, shall receive preference over households on the waiting list with incomes exceeding 30% AMI. Extremely Low Income Households will be selected from the waiting list in chronological order, and other eligible households will be housed after all Extremely Low Income Households on the waiting list have been housed to fill the 40% of expected vacancies. Management will continue to market units with efforts to reach the Extremely Low Income population. If there are no Extremely Low Income Households on the waiting list, other households will be housed in the order in which they have applied.

## 19. Processing Steps

The development shall be rented and occupancy maintained on a first-come, first-served basis with preferences taken into consideration. All persons wishing to be admitted to the development or placed on the waiting list must complete an application. Prospective tenants submitting incomplete applications will not be considered for occupancy. The initial application shall be timed and dated when received, and the resident manager shall maintain at the rental office a chronological list of all Applicants (categorized on a bedroom size requirement). Preference households and existing residents requiring unit transfers because of accommodation will move ahead of chronological status Applicants. Applicants shall be offered housing (after meeting all selection criteria requirements including the verification process), placed on the waiting list, or declined. Potentially eligible Applicants who have met tenant selection criteria and for whom the right size unit is not available will be placed on the waiting list and informed in writing that they will be contacted when an appropriate unit becomes available. Applicants who fail to provide acceptable landlord references, credit history or who have a criminal background will be notified that they have been removed from the waiting list. When an appropriate unit is available, the waiting list shall be reviewed to identify the Applicant who meets preference criteria or whose name is chronologically at the top of the list. The resident manager shall interview the Applicant; confirm and update all information provided on the application; update credit reports older than one year; obtain current information of income, expense and Family composition as applicable and necessary to certify eligibility and compute the resident's share of the rent. Each Applicant will be required to evidence citizenship and comply with the Social Security Disclosure Regulations which means each Family member, must supply his/her Social Security number and verification of the same. The Applicant shall be informed that a final decision on eligibility cannot be made until all verifications are complete and current income has been verified. Applicants, whose position on the waiting list enables application processing, will receive only two consecutive notices of housing availability. If the Applicant is unable or decides not to complete the application process, the Applicant shall be removed from the waiting list upon receiving the second notice and must reapply for eligibility. The waiting list shall be updated every three months and may be closed for one or more unit sizes when the average wait for admission is more than a year.

Applications will be received by mail as well as at the community office located at:  
506 South First Street, #100, Aberdeen, SD 57401

## 20. Screening Criteria

The following factors shall be considered in screening Applicant for occupancy:

- a. Demonstrated ability to meet financial obligations and to pay rent on time.



- b. Household must sign the HUD Consent to Release Information forms (HUD 9887 and HUD 9887a) at admissions and each year at recertification. The release of information forms are in accordance with HUD requirements in the HUD 4350.3 for Section 8 programs.
- c. Comments/referenced from current and former landlords (endorsement from at least two is preferred); landlord comments/references may request the information regarding the following:
  - i. Non-payment of rent - Credit checks may be useful when no rent payment history is available. However, lack of a credit history, as opposed to poor credit history, is not sufficient justification to reject an applicant.
  - ii. failure to cooperate with applicable recertification procedures
  - iii. violations of house rules (e.g. disturbance of neighbors)
  - iv. violations of lease (e.g. destruction of property)
  - v. history of disruptive behavior
  - vi. History of disturbing neighbors or destroying property.
- d. Applicant's credit history.
  - i. Reference requirement: in cases where there is a total lack of rent and credit history, applicants will be required to provide an acceptable Housing Provider Reference and at least two satisfactory professional reference letters from persons other than family members. A Home Visit may be used to confirm the information received in the Housing Provider Reference (but will not be a requirement)
- e. Ability to maintain (or with assistance would have the ability to maintain) the housing in a decent and safe condition based on living or housekeeping habits and whether such habits adversely affect the health, safety or welfare of the household and other residents in the community.
- f. Ability to meet all obligations of tenancy.
- g. History of using illegal drugs or history of abusing alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of others.
- h. History of felony or misdemeanor convictions by any household member involving crimes of physical violence against persons or property and any other criminal activity including Drug-Related Criminal Activity.
- i. Any household member has been evicted from assisted housing within three years as a result of Drug-Related Criminal Activity.
- j. Registered sex offender status.
- k. Income Limit qualification.
- l. Household's Status of part-time or full-time students, eligibility of household members as full or part time students shall be affected if the household would be unsuitable according to HUD's ruling on students.
- m. Household's citizenship status will be reviewed for all members of the household and may affect eligibility
- n. Units for persons with handicaps. Where the applicant requests such a unit or preference, inquiries may be made to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap. Inquiries may be made to determine whether an applicant for dwelling is qualified for a priority available to persons with handicaps or to persons with particular type of handicap.
- o. Accommodation to the handicapped. During the screening process, an owner may be required to modify the screening criteria as a reasonable accommodation to persons with handicaps (e.g. scheduling an interview on a day when the applicant does not have physical therapy or a doctor appointment).



- p. Assistive animals. Some individuals with handicaps may require an assistive animal (e.g. guide dogs for persons with vision impairments, hearing dogs for persons with hearing impairments and “emotional support animals”). THE COMMUNITY has an established Reasonable Accommodation Policy which provides detailed instructions for applicants and residents on what the steps and necessary forms are for the reasonable accommodation process are and how to go about applying for a reasonable accommodation for an assistive or companion animal. Applicants and/or residents may ask for a copy of the reasonable accommodation policy at any time.
- q. Live-in assistance. An applicant with a handicap or disability, who may be unable to care for a current apartment alone, may still qualify is able to comply with lease if he/she can demonstrate that assistance with caring for the apartment has been secured. Assistance could be live-in, or it could be a friend, family member, or a service employee. Screening would determine whether the assistance would enable the applicant to meet the screening criteria. Management will verify the need for the live-in aide. Verification that the live-in aide is needed to provide the necessary supportive services essential to the care and well-being of the person must be obtained from the person’s physician, psychiatrist or other medical practitioner or health care provider. Management must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability as stated in chapter 3 of the HUD 4350.3.

## 21. References, Criminal, and Credit History

Management will require consent of all adult household members for verification of references and permission to seek credit and criminal background history.

- a. **Landlord References:** Landlord references will be required for up to five (5) years, including the present landlord. Applicants, who have been previous homeowners, must be able to demonstrate that they have made mortgage payments in a timely manner. Applicants, who have had no previous rental or homeownership history, must provide personal references. Unfavorable landlord or personal references may result in removal from the waiting list.
- b. **Credit History:** Credit reports will be ordered for each Applicant. The credit report will be reviewed to determine the Applicant's history of meeting financial obligations including payments for rent, utilities, loans, revolving credit cards, and other obligations. Applicant's credit history must be acceptable to management before they will be approved to occupy a unit. The credit report will be reviewed to:
- confirm current address;
  - confirm credit sources included on the application;
  - confirm current and past employment listed on the application; and
  - to determine whether the Applicant has an acceptable credit history.

Applicants, whose credit histories are unacceptable, will be declined and removed from the waiting list. An unacceptable credit history is one that reflects consistent, past-due payments of more than 90 days; a history of repeated insufficient fund checks; derogatory credit (repossessions, foreclosures, judgments, collections, charge-offs, liens, bankruptcy not yet discharged, etc); delinquent or charge off debt due other apartment communities; or unpaid utility company collections which would prohibit applicant from obtaining services. The lack of credit history or past due payments or derogatory credit relating to medical expense or student loans will not be considered as grounds for declining an Applicant. Consideration will be granted when current credit history demonstrates a pattern of improvement; history of rent



payment overshadows other debt issues or Applicant can demonstrate acceptable reasons for credit history. Applicants may wish to provide an explanation that evidences efforts to correct credit deficiencies through payment plans or other work out solutions. If such explanation is acceptable to management, further screening may be conducted and written confirmation of payment plans may be required from the creditor(s). In the event of decline based upon credit, the Applicant has 14 days to provide an explanation and request further consideration. Management will provide a copy of Applicant's credit report upon request. It is the Applicant's responsibility to contact the credit reporting agency to resolve any items that have been incorrectly reported.

- c. **Criminal Activity Reports:** A criminal activity report will be ordered for each Applicant, and an Applicant with a history that includes felonious crimes, Drug-Related crimes violent crimes or sexual crimes will be declined and removed from the waiting list. Reports will be obtained from local and/or state records. Consideration may be granted to Applicants with past nonviolent criminal records occurring five or more years in the past with no further criminal record. If the Applicant has resided in a state other than South Dakota and has a past felony conviction, a report will be required from that state or federal organization. Applicants will be required to certify that they or members of their household are not Registered Sex Offenders. Registered Sex Offenders will not be admitted to the apartment community.

## 22. Rejecting Applicants

Applicants may be declined if any one of the following categories apply:

- a. Applicants will be considered ineligible if they do not meet the age restriction for this project, which restricts admissions to persons 62 years of age or older
- b. Applicant requests that their name be removed from the waitlist
- c. Applicant was clearly advised in writing of the requirement to inform Property Management of his/her continued interest by a stated, specific time, failed to do so
- d. Failure to meet one or more of the screening criteria.
- e. Information required by the application and income verification process is not provided.
- f. Failure to respond to written requests for information.
- g. Declaration by Applicant that they are no longer interested in housing.
- h. Unacceptable credit history.
- i. Income exceeds the appropriate Very Low Income Family Income Limit when dictated by Federal programmatic requirements and applicants cannot have net family assets that exceed \$100,000 (adjusted annually for inflation); and/or the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.
- j. Inability to appropriately maintain housing in a decent safe and sanitary condition.
- k. Applicant is single, under 18 years of age and has never been emancipated under South Dakota law.
- l. Family size is too large for available units, and serious overcrowding would result in providing a smaller unit.
- m. History of unjustified and chronic non-payment of rent and financial obligations.
- n. History of disturbing the quiet enjoyment of others.
- o. A risk of intentional damage or destruction to the unit or surrounding premises by the Applicant or those under the Applicant's control.
- p. History of violence and harassment of others.



- q. History of violations of the terms of previous rental agreements such as destruction of a unit or failure to maintain a unit in a decent, safe, and sanitary condition.
- r. Criminal history includes a felony conviction for Drug Related Activity, violent crime, sexual crime, or a misdemeanor (excepting traffic violations).
  - a. Eviction for drug related criminal activity: if the applicant or any household member has been evicted from any previous housing in the last five years for drug related criminal activity, the application will be rejected
  - b. Illegal drug use: if the applicant or any household member is currently engaged in illegal use of drugs or shows a pattern of illegal use that may interfere with the health, safety, or right to peaceful enjoyment by other residents, the application will be rejected.
  - c. Illegally using a controlled substance or abusing alcohol in a way that may interfere with the health, safety and well being of other residents. Waiver of this requirement is subject to Applicant demonstrating they are no longer engaging in such activity and producing evidence of participation in or completion of a supervised rehabilitation program.
- s. Applicant or a member of the household is a Registered Sex Offender under any state sex offender registration program.
- t. Applicant or a household member has engaged in or threatened abusive or violent behavior towards any staff member of management or another resident.
- u. Applicant or a member of household was evicted from housing within three years as a result of Drug-Related Criminal Activity.
- v. Application is incomplete, or is found to contain false information.
- w. Household has members whose status as students do not meet the criteria set forth in the HUD 4350.3 handbook, Rev-1, Chg.-3.
- x. Citizenship status that does not meet HUD Requirements
- d. The following factors MUST NOT be used when screening an applicant:
  - Physical examinations: owners may not routinely require physical examinations as a condition of admission
  - Meals and other services: owners may not require tenants to participate in a meals program or establish other mandatory charges for services without the prior consent of HUD.
  - Donations or contributions: owners must not require a donation, contribution, or membership fee as a condition of admission.
  - Handicap status: owner is prohibited from inquiring as to the nature or severity of a handicap of an applicant or any persons associated with the applicant.

If an Applicant is declined, the resident manager shall promptly notify the Applicant in writing and explain in the notice the reasons for the decline. The Applicant will be notified that they have 14 days to respond in writing or to request a meeting to discuss the decline. All declined applications and supportive documentation shall be maintained at the management agent's home office in a manner that assures confidentiality.

## 23. Household Occupancy Standards

- a. Apartment size is determined by household composition.
  - Two people may occupy one (1) bedroom
    - No more than two persons are required to share a bedroom.
    - Owners may approve a unit that is smaller than occupancy standards if doing so will not cause serious overcrowding and/or the family requests a smaller unit to avoid rejection (in the case that no units of appropriate size are available.).



- Owners may approve a larger unit than occupancy standards if: the family provides medical verification that a larger unit is required or no eligible family requiring the larger unit will be available to occupy the unit within 60 days; the development contains the correct size unit for the family; and the family agrees to move to the correct size unit, at its own expense, when an appropriate unit becomes available.
- Any household placed in a unit differently sized than what is stated by Occupancy standards agrees to transfer, at their own cost, to an appropriate sized unit when it becomes available in accordance with transfer policies.

## 24. Determining Security Deposit Amounts

HUD Section 8 New Construction HAP before 11/5/1979, Substantial Rehab HAP before 2/20/1980, State Agency HAP before 2/29/1980 Security Deposit Equals TTP - The amount of the security deposit for households receiving Section 8 assistance as part of the community's project based assistance contract. The amount of the security deposit for the household shall be calculated to be the amount of the Total Tenant Payment, which is the amount of the tenant rent plus the amount of utility allowance. The security deposit amount cannot be changed at any point during the tenancy and transfers between units shall not result in the charging of a new security deposit.

## 25. Opening and Closing Waitlist

A waiting list is kept for the community; the waiting list will be updated quarterly by the management staff of the community. If there are a sufficient number of applicants per unit type to fill the average number of vacancies in a year, the waiting list is suspended. When applications on hand are insufficient to fill the annual vacancies the waiting list is re-opened. The reopening of the waiting list will be announced by notification of all personnel who may be involved with inquiries regarding housing, though communication with social service agencies and other sources of applicant referrals. Advertising, (if needed) will indicate the opening of the waiting list, and finally, the Property Managers will notify the residents of the particular apartment community. Applicants are placed on the waiting list by date and time the application was received.

When an appropriate unit becomes available the owner must conduct an interview and orientation with the applicant regarding procedures and to obtain current information about the family's circumstances. At the orientation the owner must:

- a. Confirm and update all information provided on the application. If the applicant is determined ineligible, the owner must comply with proper procedures for rejection.
- b. Explain the program requirements, verification procedures, and penalties for false information. The penalties include eviction, loss of assistance, fines up to \$10,000 and imprisonment for up to five years
- c. Obtain other family income and compensation information needed to certify eligibility and compute the tenant's share of the rent
- d. Review the financial information on the application and specifically ask the applicant whether any member of the household receives the types of income or assets as listed on the application.
- e. Ask the head of household, spouse, and household members age 18 and over to sign the release of information consent portion of any verification request used for them.
- f. Require the head of household and spouse to give a written verification as to whether any family member did/did not dispose of any assets for less than fair market value during the two years preceding the effective date of the verification.





- g. Advise the family that, for a sample of cases, HUD will compare the information with Federal, State, or Local agencies.
- h. Tell the family that a final decision on eligibility cannot be made until all verifications are complete
- i. Require that the head of household, spouse and all family members disclose and document Social Security numbers, or execute a certification when a Social Security number has not been assigned.]
- j. Inform the family that Federal Law prohibits the owner from discriminating against individuals with handicaps.
- k. Inform applicants of any applicable rules regarding pet ownership
- l. At time of orientation owner will provide information regarding security deposit requirements and other facility or services available and what fees are involved

## HOTMA Policies

- a. Repayment for Overcharge:
  - The Fifth Avenue Apartments will take corrective action to credit or repay a family if the family was overcharged tenant rent because of de minimis errors in calculating family income.
  - The Fifth Avenue Apartments will not require families to repay in instances resulting in a family being undercharged for rent where the Fifth Avenue Apartments miscalculated the family's income.
  - Fifth Avenue Apartments will repay or credit a family the amount, according to the wishes of the family, that the family was overcharged retroactive to the effective date of the action the error was made.
- b. Asset Determination:
  - The Fifth Avenue Apartments will determine if the family's total net family assets are equal to or less than \$50,000, (adjusted annually for inflation) and will determine the actual income earned from the asset(s)
  - The Fifth Avenue Apartments will accept a family's self-certification of net family assets equal to or less than \$50,000 (adjusted annually for inflation), and anticipated income earned from assets without taking additional steps to verify accuracy, at admission and at re-examination. The Fifth Avenue Apartments, at re-examination, will fully verify net family assets every three years.
- c. Hardship Relief:
  - The Fifth Avenue Apartments defines hardship as the family's inability to pay rent for the purposes of the childcare expense hardship exemption. The Fifth Avenue will extend the hardship relief for one or more additional 90-day periods while the family's hardship condition continues. The Fifth Avenue Apartments will obtain third-party verification of the family's inability to pay rent or document in the file with the reason third-party verification was not available. The Fifth Avenue Apartments will attempt to obtain third-party verification prior to the end of the 90-day period
  - The Fifth Avenue Apartments will provide hardship relief to a family that demonstrates its eligible health and medical care expenses, or reasonable



attendant care and auxiliary apparatus expenses exceed 5 percent of the family's annual income. To meet the requirements for the health and medical care expense hardship exemption, the family must have expenses that meet the definition of health and medical care expenses as provided by 24CFR 5.603(b). To meet the requirements for the reasonable attendant care and auxiliary apparatus expenses hardship exemption, the family must have expenses that meet the definition of reasonable attendant care and auxiliary apparatus expenses at 24 CFR 5.603(b). All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual or interim re-examination, whichever occurs first on or after the date the Fifth Avenue Apartments complies with HOTMA. Families who receive phased-in relief will have eligible expenses deducted as follows: 1st twelve months – in excess of 5% of annual income; 2nd twelve months – in excess of 7.5% of annual income; After 24 months – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for General Relief. Once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.

- The Fifth Avenue Apartments will extend the hardship relief for one or more 90-day intervals, while the family's hardship condition exists. The Fifth Avenue Apartments will conduct third-party verification of the hardship or will document in the file the reason that third-party verification was not available. Third-party verification will be obtained prior to the end of the 90-day hardship period. The Fifth Avenue Apartments will continue the phased-in relief for a new admission who was receiving the phased-in relief at their prior assisted housing at the time that the family is admitted to their current unit.

d. Re-examination of Tenant Income

- The Fifth Avenue will process interim re-examinations for all decreases in adjusted income when a family member permanently moves out of the unit.
- The Fifth Avenue Apartments will decline to conduct an interim re-examination of family income if the family's annual adjusted income will decrease by an amount that is less than ten percent of the family's annual adjusted income.
- The Fifth Avenue Apartments will conduct an interim re-examination of family income when they become aware that the family's annual adjusted income has changed by an amount that would result in an estimated increase of ten percent or more in annual adjusted income or another amount established through a HUD notice, except The Fifth Avenue Apartments will not consider any increases in earned income when estimating or calculating whether the family's



adjusted income has increased, unless the family has previously received an interim reduction during the same re-examination cycle.

- The Fifth Avenue Apartments will not to conduct an interim re-examination if a family reports an increase in income within three months of their next annual re-examination effective date. The Fifth Avenue Apartments will not include earned income increases in determining whether the ten percent threshold is met for increases in adjusted income when the family previously had an interim re-examination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual re-examination.
- Families must report household composition changes and changes to adjusted income consistent with HOTMA's requirements; however, The Fifth Avenue Apartments requires 10-day notification of occurrence to be considered "timely." The Fifth Avenue Apartments does not retroactively decrease rent.
- The Fifth Avenue Apartment require Household composition changes or adjusted income changes, within ten percent threshold in adjusted income, within 10 days of occurrence. Change forms are available online or can be picked up from the office.

e. Consent Form:

- The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family provides written notification to the Fifth Avenue Apartments to revoke consent. Families have the right to revoke consent by notice to the Fifth Avenue Apartments; however, revoking consent will result in termination or denial of assistance. The Fifth Avenue Apartments will not process interim or annual re-examinations of income, including when a family's income decreases and the family requests an interim re-examination to decrease tenant rent, without the family's executed consent form(s). The Fifth Avenue Apartments will notify their local HUD office when an applicant or participant family member revokes their consent.
- The Fifth Avenue Apartments will terminate assistance and deny admission if the executed consent form is revoked.

f. Income Determination:

- The Fifth Avenue Apartments will determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance: The Temporary Assistance for Needy; Families block grant (42 U.S.C. 601, et seq.); Medicaid (42 U.S.C. 1396 et seq.); The Supplemental Nutrition Assistance Program 42 U.S.C. 2011 et seq.); The Earned Income Tax Credit (26 U.S.C. 32);The Low-Income Housing Tax Credit (26 U.S.C. 42); The Special Supplemental Nutrition for Woman,



Infants, and Children (42 U.S.C. 1786); Other programs administered by the Secretary. Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding. Other Federal benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice. Safe Harbor verification must be obtained by means of third-party verification and must state the family size, must be for the entire family (i.e., the family members listed in the documenting must match the family's composition in the assisted unit, except for household members) and must state the amount of the family's annual income. Safe Harbor verification must not be mixed and matched with other income verifications, including other Safe Harbor income determinations.

- The Fifth Avenue Apartments will accept Safe Harbor income determinations at admission and re-examination for which programs outlined in the prior bullet. Fifth Avenue Apartments, when multiple verifications are rendered, will use the income determination most favourable to the family.
- g. EIV Policy
  - The Fifth Avenue Apartments uses HUD's EIV system in its entirety, in accordance with 24 CFR 5.233.
  - The Fifth Avenue Apartments does not include earned income increases in determining whether the ten percent threshold is met for increases in adjusted income when the family previously had an interim re-examination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual re-examination. EIV is not used during interim re-examinations and EIV Income Report, EIV Income Discrepancy Report or New Hires Report at annual re-examination are not used if Safe Harbor verifications are utilized.

## 26. Definitions

- a. **APPLICANT** includes all adult members of the Family or household; and means a person or family that has applied for housing assistance
- b. **DISABLED FAMILY** means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.
- c. **DISPLACED FAMILY** means a family in which each member, or whose sole member is a person displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or other formally recognized pursuant to Federal disaster relief laws.
- d. **ELDERLY FAMILY** means a family whose head, spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 year of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.
- e. **DISABLED PERSON** is a person with a disability as defined by Section 223 of the Social Security Act or as generally defined in 42 USC Section 6001(7) as a severe, chronic disability which:
  - is attributable to a mental/or physical impairment or combination of mental and physical impairments;



- was manifested before age 22;
  - is likely to continue indefinitely;
  - results in substantial limitations in three (3) or more of the following areas of major life activities: self-care, receptive and responsive language, learning mobility, self-direction, capacity for independent living, and economic Self Sufficiency; and
  - reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or the other services which are of lifelong, or extended duration and are individually planned and coordinated.
- f. **DRUG RELATED CRIMINAL ACTIVITY** Drug Related Activity means the illegal manufacture, sale, distribution or use of a drug or the possession with the intent to manufacture, sell or distribute a controlled substance. Drug-Related Criminal Activity does not include the use or possession, if the household member can demonstrate that they:
- have an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; **and**
  - have recovered from such addictions and do not currently use or possess controlled substances. The household member must submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.
- g. **ELDERLY PERSON** is a person who is at least 62 years old.
- h. **NEAR ELDERLY FAMILY** means a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.
- i. **ELDERLY HOUSEHOLD** is a household whose head or spouse is elderly, handicapped or disabled. The household may be two or more Elderly, Handicapped or Disabled Persons who are not related, or one or more such persons living with a live-in aide(s) essential to their care or well being. A household may NOT designate a Family member as head of household solely to qualify the Family as an Elderly Household.
- j. **FAMILY** is one or more persons in a household whose income and resources are available to meet the Family's needs; Family includes but is not limited to:
- A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family;
  - The remaining member of a tenant family; and
  - A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.
- k. **HANDICAPPED PERSON** is a person with a physical or mental impairment that:
- is expected to be of long, continued and indefinite duration;
  - substantially impedes the person's ability to live independently;
  - is such that the person's ability to live independently could be improved by more suitable housing conditions;
  - and a person with a developmental disability.
- l. **PERSON WITH DISABILITIES** means a person who:
- Has a disability, as defined in 42 U.S.C. 423;
  - Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - Is expected to be of long-continued and indefinite duration;
  - Substantially impedes his or her ability to live independently, and



- Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - Has a developmental disability as defined in 42 U.S.C. 6001.
  - Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
  - For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
  - Means “individual with handicaps”, as defined in §8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.
- m. **INCOME LIMITS** are defined as those income limitations published by organizations regulating the development.
- n. **LIVE-IN AIDE/ATTENDANT** is a person who lives with an Elderly, Disabled or Handicapped individual(s), is essential to that individual’s care and well being, is not obligated for the support of the person, and would not be living in the unit except to provide the support services. While a relative may be considered to be a Live-in Aide/Attendant, the relative can reside in the unit as a Live-in Aide/Attendant only if the tenant requires special care. The Live-in Aide qualifies for occupancy only as long as the tenant requires supportive services and may not qualify for continued occupancy as a Remaining Family Member.
- Is determined to be essential to the care and well-being of the persons;
  - Is not obligated for the support of the persons, and
  - Would not be living in the unit except to provide the necessary supportive services
  - **REMAINING MEMBER HOUSEHOLD** is a person who remains in a unit following a decrease in Family composition.
- o. **SINGLE PERSON** is a person who intends to live alone.
- p. **VERY LOW INCOME FAMILY** is a Family whose income does not exceed fifty per cent (50%) of the area median income as determined by HUD.
- q. **VIOLENCE AGAINST WOMEN ACT**  
The Violence Against Women and Justice Department Reauthorization Act of 2005 protects residents who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them.
- r. **HOTMA**, The Housing Opportunity Through Modernization Act of 2016 (HOTMA) was enacted in 2016 and affects public housing and Section 8 rental assistance programs.

