

is living in such a census tract, the HA briefing must explain the advantages of moving to an area that does not have a concentration of poor families, such as improved employment, educational opportunities and decreased dropout rates. In the briefing, the HA may not discourage the family from choosing to live anywhere in the HA jurisdiction, or outside the HA jurisdiction under portability procedures. (§ 982.301(a)(3))

The final rule provides that the briefing packet must include a copy of the HUD prescribed "lease addendum" (required lease language), and the form of request for lease approval. (§ 982.301(b) (6) and (7))

The proposed rule would have required that the HA supply the family certain types of information on prevention of lead-based paint poisoning. The final rule provides that the HA must give the family the HUD-prescribed lead-based paint brochure. (§ 982.301(b)(11))

2. Information About Landlords

The proposed rule would have provided that if requested by the family, the HA would give the family available information about prospective landlords. Comments state that the HA should provide information about "units", rather than about prospective "landlords". Other comments state that the HA should not be allowed to release landlord information without the landlord's consent, or that HAs may be accused of steering families to landlords in particular areas. HUD has not followed these suggestions.

The final rule requires that the briefing packet include a list of landlords or other parties known to the HA who may be willing to lease a unit to the family, or help the family find a unit. (§ 982.301(b)(13)) The list may include owners or rental agents for specific properties or units known to the HA (for example, an apartment house with units rented to other program participants), or entities that may provide access to numerous units and locations in the local market, such as real estate agents, rental agents or social service agencies with listings of possible rental openings. The HA may or may not provide a listing of specific "units". The name of a single listing agent may provide access to many specific units in the local housing market.

In providing listings to assist a family, the HA is subject to general program requirements designed to protect the family's practical and legal freedom to search for an available unit. The HA may not discourage the family from choosing to live anywhere in the HA jurisdiction, or outside the HA

jurisdiction under portability procedures. (§ 982.301(a)(2)). The HA may not directly or indirectly reduce the family's opportunity to select among available units. (§ 982.353(f)) These general requirements apply both to the provision of landlord and agent listings to the family, and to other aspects of program administration. The HA may not design such lists in order to steer families to particular areas, thereby reducing a family's opportunity to select available units, or discouraging the family from living anywhere the family may choose.

At the same time, the rule leaves the HA broad discretion and authority to provide information to families in a practical and helpful way. The HA is not required to provide a listing of every possible landlord known to the HA. The rule does not state that the HA must provide any specific number of listings.

Comments suggest that the HA should be required to give the tenant a list of owners that are barred from participation, so families don't waste time. HUD agrees that such information might be helpful in some markets, or for some owners or units. However, HUD is not persuaded that this practice will be universally beneficial, or should be mandated by federal regulation. In many cases, it may be difficult for tenants to correlate lists of barred "owners" with listings of units available for rental in the local market.

3. Information for Disabled Persons

The proposed rule would have required that if a member of the family were disabled, the HA must have provided information about current "available" accessible units known to the HA. Comments state that the HA does not know whether housing is available. Comments also state that the HA should be required to give the family information available to the HA of locations and contacts for accessible housing or other assistance.

HUD agrees that HAs can only furnish available information on possible openings in accessible units. The final rule provides that at the request of a family that includes a disabled person the HA must provide a current listing of accessible units "known to the HA that may be available" for rental to program participants. (§ 982.301(b)(14) (emphasis supplied))

Comments suggest that the oral briefing should use appropriate procedures for communication with the disabled. Existing HUD regulations at 24 CFR part 8 prohibit discrimination against disabled persons in administration of HUD assistance programs. Section 8.6 of these

regulations requires recipients to take appropriate steps to assure effective communication with applicants and beneficiaries. The present rule is revised by adding a reference to these requirements. (§ 982.301(a)(4))

B. Giving an Owner Information About a Family

The proposed rule would have provided that the HA must give a prospective owner information in the HA's possession about rental history or drug-trafficking by members of the family.

Some comments agree that HUD should require or allow the HA to release information about the family to a prospective Section 8 owner. The comments claim that providing the information to owners will improve relations between the HA and landlords. Comments state that the HA should both inform the family about the owner, and the owner about the family.

Other comments contend that the HA should not act as a clearinghouse for tenant information. HUD should not require or allow an HA to give landlords information about prospective tenants. Determination of tenant suitability is the responsibility of the owner. The HA should not be involved in owner screening of tenants. The owner can check tenant references. The proposed and final rule provide that the HA must tell the owner that the HA has not screened the family for suitability, and that such screening is the owner's responsibility. Comments agree that the HA should so inform the owner.

The rule is revised to add a new provision stating that:

"Owners are permitted and encouraged to screen families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

- (1) Payment of rent and utility bills;
- (2) Caring for a unit and premises;
- (3) Respecting the rights of others to the peaceful enjoyment of their housing;
- (4) Drug-related criminal activity or other criminal activity that is a threat to the life, safety or property of others; and
- (5) Compliance with other essential conditions of tenancy." (§ 982.307(a)(2))

Comments state that the release of information about a family to prospective owners may expose the HA to potential legal liability, or violate confidentiality requirements under federal or State law. The obligation for the HA to give landlords information on prospective tenants adds a new bureaucratic requirement, and forces an HA to maintain rental or behavioral data on individual tenants. Comments note that HA release of tenant information