



TAX CREDIT HOUSING MANAGEMENT INSIDER

A LEGAL COMPLIANCE GUIDE FOR THE LOW-INCOME HOUSING TAX CREDIT COMMUNITY

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UPCS Inspectors to Report on Bedbugs

Uniform Physical Condition Standards (UPCS) inspectors who conduct physical inspections of HUD-assisted sites will be required to report the presence of bedbugs at any site being inspected. HUD inspector notice no. 2010-01, which went into effect Sept. 13, 2010, sets protocol requirements for collecting data on bedbug infestations.

Before the inspection, inspectors will meet with site managers to inquire about any reports of bedbugs in the units. Inspectors won't enter a unit if bedbugs are reported in that unit. If a unit with bedbugs is selected in the sample, or if the presence of bedbugs is discovered after the start of the inspection, the inspector will choose an alternate unit, and treat the unit with bedbugs as uninspectable due to "other hazard" as the reason, and "bedbugs" as the comment. In both cases, the inspector will call the Technical Assistance Center to report the presence and location of bedbugs. If the site has relocated a unit's residents because of a bedbug issue, then the unit is considered vacant and still won't be entered.

According to HUD, the presence and/or treatment of bedbugs won't be scored in the UPCS inspection. But the data is being collected to ensure that HUD program participants maintain HUD sites in decent, safe, and sanitary condition, and in good repair.

FEATURE

How to Implement a Smoke-Free Policy

On Sept. 15, 2010, HUD released guidance for adopting smoke-free housing policies in federally assisted sites [Notice H2010-21]. While HUD states that implementing a smoke-free policy is optional, the agency's clear support of smoke-free policies could prompt more owners to put a policy in place.

Over the past few years, the number of sites nationwide that have implemented no-smoking policies has grown dramatically. According to the Smoke-Free Environments Law Project, "as of Aug. 31, 2010, at least 186 local housing authorities in the United States have adopted smoke-free policies for some or all of their sites; at least 170 since January 2005. That is an average of over 2.5 per month, and constitutes an increase of more than 1,000 percent for the 68-month period."

Yet there are still some owners that are reluctant to interfere with their residents' right to smoke in their units. Many worry that they

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DEALING WITH HOUSEHOLDS

Set Proper Procedures for Handling Resident Grievances

Your staff members deal with various types of requests from residents every day. Occasionally, a resident may feel that his or her issue has not been properly acknowledged, is not being followed up on, or that things are just taking too long. Very quickly, the request can turn into a complaint. Most often, the types of resident grievances that escalate into formal complaints against a site arise from requests for reasonable accommodations or maintenance that have been ignored or overlooked. Other common sources include eviction proceedings and tenant-to-tenant disputes that are not being handled effectively by site management.

How can you ensure that residents' grievances are handled properly at your site and don't escalate unnecessarily due to staff error? We've asked tax credit and affordable housing experts to share their insights for developing effective resident grievance procedures.

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Smoke-Free Policy (continued from p. 1)

will be sued by residents who are smokers, and some just don't want to deal with the hassle of trying to enforce a no-smoking policy.

These are all common misperceptions that have prevented site owners and managers from implementing a no-smoking policy in the past. The truth is, smoke-free policies are legal and justified—they are no different from other rental restrictions, such as pet policies, says Sarah Mayberry, program coordinator, Smoke-Free Housing Coalition of Maine. In fact, the majority of residents want to live in smoke-free buildings, she says, citing a survey of residents in Maine in which more than 70 percent said they wanted to live in smoke-free buildings.

Implementing a smoke-free policy is not as difficult or time-consuming as many owners and managers believe, says Diane Laughter of Health In Sight LLC and the Oregon Smokefree Housing Project. "Most state public health officials are working on smoke-free policies, so there are local partners available to you," she says. "There are also many great Web sites—no one needs to start this with a blank slate; there are all kinds of tools out there." (Links to Web sites with smoke-free policy resources and tools can be found in the "Insider Sources" section at the end of the article.)

The following steps can help you to make a smooth smoke-free policy roll-out.

Conduct Resident Survey

If you're still deciding whether a smoke-free policy will work at your site, conducting a resident survey can provide you with the information you need to move forward, says Laughter. If you've already decided to implement a policy, a survey is an essential tool to get resident buy-in early in the process.

The key is to ask the questions that you need to make the decision, she says. For instance, "Would you support rules that prohibit smoking inside units at ABC Community buildings?"

"It's a vote and acts as a feedback loop," she says. "Management should go back to the residents and report on the findings." Be sure to do that at a community-wide meeting where residents can air their opinions and feelings. "It doesn't have to change what is going to happen, but it is an important part of the process."

Laughter encourages owners and managers to reach out to their public health partners at the county health department or the American Lung Association, and ask them to attend the meeting. "They'll be happy to do it, and it demonstrates to residents that you're not alone in this," she says.

Educate Residents About New Policy

Resident education is a critical step when converting a site from smoking to nonsmoking, says Jacque Petterson of Smoke-Free Housing Consultants. She recommends holding resident meetings to educate those who smoke about why the owner is implementing the

policy, and for those who don't smoke, what it means for them in terms of health and safety. "Follow up the meeting with letters to residents about the policy—how you're going to implement it and when it's going to happen," she says. "Try to bring it about in an educational way."

She points to one management company that printed cards that explained the smoke-free policy and designated where the smoking areas for the site were. They were business-card size so site staff members could carry them in their pockets. "When they saw a violator, they would hand him the card and explain to him very nicely that they needed him to smoke in the designated area," Petterson says.

"Hold one-on-one firm discussions with residents who smoke before the policy goes into effect," suggests Esther Schiller of the Smokefree Apartment House Registry. "Give them the information about when and how the policy will go into effect, and then give them time to get used to it—three months to six months. It will also give them an opportunity to move if they so choose."

PRACTICAL POINTER: If your site accepts federal funding, HUD requires you to notify current residents who have completed their initial lease term of the changes to the house rules 30 days prior to implementation. For residents who have not yet completed their initial lease term, you must provide 60 days' notice, prior to the end of their lease term, of the change in the house rules. For details on changing house rules and procedures for providing notice to households, see HUD Handbook 4350.3 REV-1, pars. 6-9 and 6-12.

Designate Specific Smoking Areas

Some sites choose to establish totally smoke-free policies that encompass the buildings, areas outside residents' units, and common areas. However, if you decide to allow smoking in designated areas, you must provide clear signage that identifies these as smoking areas.

If at all possible, set up a smoking area away from the building, says Schiller. "Put out a table and chairs, umbrella, and an ash urn. Let the residents who smoke be sociable with each other," she says. If you don't have a patio-type area, consider taking one spot from the parking area and turning it into a smoking area, she adds.

Make sure that the designated smoking area is in an accessible location and is safe for mobility-impaired residents.

Weigh Downside of Grandfathering

One of the most common questions site owners have about implementing a smoke-free policy is whether to include a grandfather clause to allow current residents to continue to smoke in their units until their leases expire. The problem with grandfathering is that you may end up with smokers living next to nonsmokers, and the smoke from one unit can drift into the other.

The sites that have had the smoothest implementations are those that make their policies the most sweeping, says Laughter. If you provide grandfather clauses for residents who smoke, you will need to keep track of which residents have leases that allow smoking, which makes it complicated for your site staff. In addition, you

may end up with nonsmoking residents living next to smokers, which will create conflict.

"To keep things simple, decide on a date when the policy goes into effect, make sure that there is adequate signage and communication with residents, and just go for it," she says.

Offer Smokers an Incentive

Habits are hard to break, and nicotine is a strong addiction. After the smoke-free policy has been implemented, you may find that some residents are continuing to smoke in their units. HUD states that you cannot ask existing residents to move out of the site or ask them to transfer from their unit to another unit because of your smoke-free policies.

Schiller suggests persuading residents who are smoking to stop by offering them a rehab of their unit—new carpets, walls washed and painted, etc. The unit will no longer smell like smoke, which may help the residents to stop smoking. In exchange, they have to sign an agreement that they are not going to smoke in the unit.

"Because there is a contractual agreement, a judge might look more favorably upon that if the resident began smoking in the unit again," she says. "The owner is going to have to rehab the unit at some point. Why not do it to help the resident stop smoking in the unit?"

Be Firm with Violators

According to HUD, repeated violations of the nonsmoking policy may be considered material non-compliance with lease requirements, and may result in the termination of the tenancy. (Fol-

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MODEL LETTERS**Send Residents No-Smoking Violation Warning Letters**

The following letters were developed by Diane Laughter of the Oregon Smokefree Housing Project, with generous contributions from Guardian Management, LLC, which led the way in adopting no-smoking policies. The letters, along with other tools for site owners and managers, can be downloaded at www.smokefreehousinginfo.com.

FRIENDLY WARNING LETTER

Nov. 30, 2010

Dear Mr. Resident:

On Nov. 29, 2010, you submitted a maintenance request to repair a broken window. When entering your unit, I noticed a very strong odor of cigarettes. I asked if you had been smoking, and you said that you were trying to stop. I reminded you that you are not allowed to smoke in your unit.

Per your lease/house rules #48, smoking is prohibited in any area of the property. I have attached a copy of the house rules for you to review.

Please refrain from smoking in your unit or on the property.

Failure to comply with your lease could result in eviction proceedings.

If you have questions or concerns, please contact me at (503) 222-2222 or stop by the office.

Thank you for your cooperation in this matter.

Yours truly,
Jane Smith
Manager, ABC Community

VIOLATION WARNING LETTER

Nov. 30, 2010

Dear Mr. Resident:

Please be advised that you are in violation of ABC Community policies or local laws.

Per your lease/house rules #48, smoking is prohibited in any area of the property. I have attached a copy of your lease with the applicable rules highlighted. We are aware that you are continuing to smoke in your unit.

You, your family members, roommates, and/or visitors must refrain from smoking in your unit or on the property. You are requested to correct this situation by *[insert date that complies with any applicable policy notice or cure periods]*.

Your immediate attention to this matter is greatly appreciated. Please contact the management office if you have questions. Failure to comply with your lease could result in eviction proceedings.

If you have questions or concerns, please contact me at (503) 222-2222 or stop by the office.

Thank you for your cooperation in this matter.

Sincerely,
Jane Smith
Manager, ABC Community

Smoke-Free Policy

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low the existing eviction procedures outlined in Chapter 8 of the HUD Handbook.)

If you have repeat violators, you need to follow the same procedure that you would for any other policy, says Laughter. She recommends beginning with an oral warning, followed up with a friendly warning letter (see our Model Letters: Send Residents No-Smoking Violation Warning Letters). If the resident continues to violate the smoke-free policy, send her a formal warning letter. If the violation persists, you will need to send an eviction notice.

Insider Sources

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Sarah Mayberry: Program Coordinator, Breathe Easy Coalition of Maine; (207) 874-8774; breathe.easy.maine@gmail.com; www.smokefreeforme.org.

Jacque Petterson: Smoke-Free Housing Consultants; (210) 383-3244; consultant@s-fhc.com; <http://s-fhc.com>.

Esther Schiller: Smokefree Apartment House Registry and S.A.F.E. Smokefree Air For Everyone; (818) 363-4220; smokefreeapartments@pacificnet.net; www.smokefreeapartments.org.

Smoke-Free Environments Law Project: www.tcsg.org (click on the "Smoke-Free Law Project" link at the bottom of the home page).

www.taxcredithousinginsider.com

Search Our Web Site by Key Words:
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