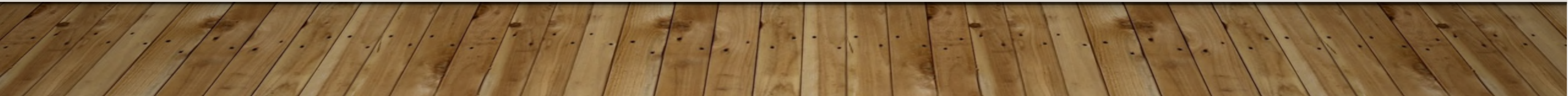




FEES AND THE LIHTC PROGRAM



TREASURY REGULATION 1.42-11

- “Any charges to low-income tenants for services that are not optional generally must be included in gross rent. A service is optional when the service is not a condition of occupancy and there is a reasonable alternative. Charges for non-optional services... would always be included within gross rent. No separate fees should be charged for tenant facilities if the costs of the facilities are included in the eligible basis”



NON-OPTIONAL FEES NON-REFUNDABLE FEES



- Non-optional or non-refundable fees are fees or services required by the property as a condition of occupancy.
 - These types of fees may include:
 - Renter's Insurance
 - Month to month lease tenancy
 - Charges for non-optional services (washer and/or dryer hook up, built in/on storage sheds)

NON-OPTIONAL FEES NON-REFUNDABLE FEES

- Fees as a condition of occupancy must be included in the gross rent computation, even if federal or state law required that the services be offered by building owners.
- For example: Disclaimer: The figures in this example are fictitious made up numbers for the purpose of this training and do not reflect the actual figures issued by HUD or the belief and/or opinions of NHD
 - A property's set aside lists a unit's maximum allowable rent at \$1,000 a month. The unit in this property has a \$40 monthly utility allowance, and the tenant pays \$960 out of pocket. The total rent for the unit is now at the maximum allowable of \$1000 a month; however, the property charges an additional \$20 a month for renter's insurance as a condition of occupancy, totaling \$1020 a month. This unit is now over the maximum allowable rent limit and is in jeopardy of losing tax credits.

Rent: \$960
UA: \$40
Total: \$1000

Good to go!!

Rent: \$940
UA: \$40
Rent Ins: \$20
Total: \$1000

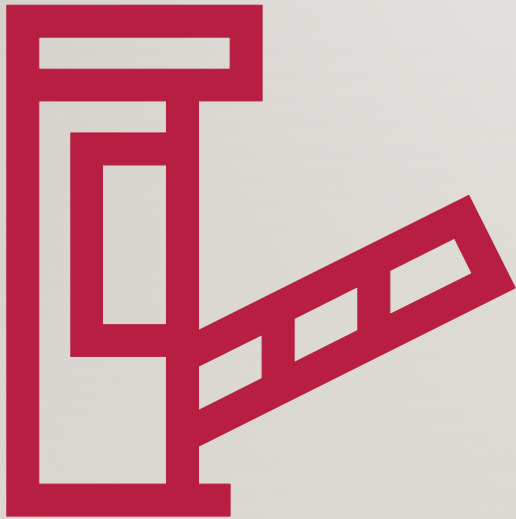
Good to go!!

Rent: \$960
UA: \$40
Rent Ins: \$20
Total: \$1020

DANGER!!

NON-OPTIONAL FEES

NON-REFUNDABLE FEES



- No separate fees should be charged for tenant facilities if the costs of the facilities are included in the eligible basis.
- Fees for preparing a unit for occupancy must not be charged; owners are responsible for physically maintaining LIHTC units in a manner suitable for occupancy.
- Tenants should not be charged an unspecified non-refundable fee as a condition of occupancy. All fees charged should be defined.

OPTIONAL FEES



- Optional fees are fees for a service when that service is not a condition of occupancy and may be declined by the tenant or there are reasonable alternatives.
 - These types of fees may include:
 - Pet fees
 - Garage fees
 - Storage fees

OPTIONAL FEES

- Assuming they are optional, fees may be charged in addition to rent. They are not included in the rent computation.
- As always, fees for service animals may not be charged.



REFUNDABLE FEES

- Refundable fees are fees that a tenant has the opportunity to recoup at the beginning or at the end of their tenancy.
 - These types of fees include:
 - Security Deposits
 - Fees paid in the event a lease is prematurely terminated.
 - Unit holding fee
- Refundable fees are not included in the rent computation for the unit.

REFUNDABLE FEES

- Security Deposit may be charged as long as:
 - The tenant has the opportunity to recoup the deposit at the end of their tenancy.
 - The deposit is consistent with all other tenants in the building (Disparate Treatment).
 - At the end of the tenancy an itemized list of monies withheld is issued to the tenant.



REFUNDABLE FEES

- Holding Fees may be charged as long as:
 - It is 100% refundable at the beginning of the tenancy
 - It is not an egregious amount, to prevent an applicant from being able to apply to the property (Disparate Impact)



APPLICATION FEES

- Application fees are fees for actual costs incurred by the property to check the eligibility of an applicant for tenancy.
 - These types of fees include:
 - Applicant's income
 - Applicant's credit history
 - Applicant's criminal background
 - Applicant's landlord references



APPLICATION FEES

- The fee charged may only be in the amount of actual out of pocket expense to the property.
- No amount may be charged in excess of the out-of-pocket costs to check applicant's background.
- It is also acceptable for an applicant to pay the fee directly to the third party providing the background history.
- The applicant **SHOULD NOT** be charged a fee for the manager's time to conduct these background checks.
- Audit notifications will be updated to request application fees charged versus costs records or methodology.

IN CONCLUSION

- Non-optional / non-refundable fees as a condition of occupancy must be included in the gross rent computation
- No separate fees should be charged for tenant facilities that were included in the eligible basis
- Tenants can not be charged for preparing a unit for tenancy
- Tenants should not be charged an unspecified fee, all fees should be defined
- Optional fees are not included in the rent computation
- Fees for service animals are never charged
- Refundable fees are not included in the rent computation

IN CONCLUSION

- The tenant should have the opportunity to recoup all or some of the refundable fees
- Fees should be applied in a consistent manner for all tenants
- They should not be an egregious amount
- Application fees should only be charged for the actual out-of-pocket costs

QUESTIONS?

