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STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
HOUSING DIVISION
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PROGRAM BULLETIN

PB-001-2023

TO: To All Concerned

Re: Refundable and Non-Refundable Fees

This memo was drafted to address concerns related to observed non-refundable fees being charged to potential LIHTC tenants.

In accordance with Treasury Regulations 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.

Fees as a condition of occupancy under Treasury Regulations 1.42-11, the cost of services that are required as a condition of occupancy must be included in gross rent.

1. Refundable fees associated with renting a LIHTC unit are not included in the rent computation (security deposits, premature lease terminations, etc.)
2. Non-refundable fees required by the property are included in the rent computation (month to month tenancy, renter's insurance, etc.)

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.

Application fees may be charged to cover the actual cost of checking a prospective tenant's income, credit history, criminal background checks, and landlord references. The fee is limited to the recovery of the actual out of pocket expense and may not be charged more than the average expected out-of-pocket costs. No additional administrative fees may be attached to this application fee.

With the above stated the following practices must cease for properties to remain in compliance with Section 42.

(775) 687-2240 or (800) 227-4960
Fax: (775) 687-4040
TDD Number (800)326-6868
www.housing.nv.gov

1. Tenants should not be charged a specified or unspecified non-refundable fee as a condition of occupancy, above and beyond the application fee and security deposits. If this non-refundable fee is being charged, as stated above, it should be included in the rent computation for that unit. If this fee is charged outside of the rent computation it may place that unit over the rent limit for the year and subject to a possible tax credit recapture.
2. Fees being charged to new tenants to prepare a unit for occupancy is not allowed, as stated above owners are responsible to physically maintain LIHTC units. If this fee is charged outside of the rent computation it may place that unit over the rent limit for the year and subject to a possible tax credit recapture.

Please take the time to double check and ensure your properties are following the above stated policy and procedures.

This Bulletin is part of the Official Nevada Housing Division Compliance Manual.