CHAPTER 15
PHFA PennHOMES PROGRAM

PHFA PennHOMES Program requirements are for properties that had an initial loan closing with the Agency July 1, 1995 and forward. Properties that closed prior to July 1, 1995 should refer to Chapter 12, PHFA HOMES Program, for specific program requirements.

The PennHOMES Program contains the combined resources from Agency Unrestricted Reserves and the Federal HOME Investment Partnership Program (HOME program) funding through the Department of Community and Economic Development (DCED). The use of HOME program funds from DCED is limited to properties located in **NonParticipating Jurisdictions (NonPJs).** PHFA is responsible for all compliance monitoring for properties that received HOME program funding in these areas. A listing of current NonParticipating Jurisdictions is included at the PHFA website.

Participating Jurisdictions (PJs) are communities that receive a direct allocation of Federal HOME program funds from HUD. Applications are made by these jurisdictions directly to HUD for an allocation of funds. Program compliance monitoring is the responsibility of the Participating Jurisdiction. When funding falls under the Participating Jurisdiction HOME funds, additional compliance procedures may be required. Contact the Participating Jurisdiction for information regarding specific reporting requirements. A listing of current Participating Jurisdictions is also included at the PHFA website.

The source of PennHOMES funding for developments located in Participating Jurisdictions is provided by an allocation of PHFA unrestricted reserves. Since these funds are used as Match for the federal program, owners are required to adhere to the Federal HOME Program requirements regarding affordability, resident protections, property standards, and income determinations.

To successfully develop a property using either of the above programs, it is often necessary to seek additional equity generated by an allocation of Low Income Housing Tax Credits (LIHTC). PHFA monitors tax credit compliance for these developments as part of its portfolio asset management program. Owners and agents of these properties must also follow the compliance and reporting requirements contained in the LIHTC Compliance Manual. This manual may be accessed at the PHFA website, www.phfa.org. Supporting Exhibits and Forms may also be found on the PHFA website.

PennHOMES Program Requirements

Specific to both PJ and NonPJ Properties

There are two basic restrictions for all PennHOMES units. Units with PennHOMES funding must be rent restricted and house families that are income qualified.

A. Income Restrictions

The PennHOMES Program requires that the determination of eligible household income be based on the HUD Regulations in the Code of Federal Regulations. To determine whether an applicant is eligible, an owner must compare the applicant's anticipated annual (gross) income for the next 12 months to the income limits for the appropriate household size. The eligible income, including income from assets, from all members of the household is counted when determining the annual income for a household. To arrive at an income from asset figure, the owner or agent must verify all assets and establish a cash value of the asset. Include in the computation any assets that were disposed of for less than fair market value within the two years prior to the effective date of the certification. At the time of verification, the anticipated income of the asset must be included in the total income figure that is compared to the applicable income limit. For the PennHOMES Program, the amount of income from assets will be determined on the total cash value of all assets owned by the household members. There are specific requirements regarding the sources of income and assets that must be included and excluded when determining annual income.

- If the total cash value of all assets owned by the household is less than $5,000, include the actual income earned from the asset in annual income.
- As interest rates fluctuate, HUD Multifamily Housing acknowledges the need to adjust the passbook savings rate at least annually to represent current national averages when necessary. Beginning February 1, 2015, HUD Multifamily will annually publish the passbook savings rate to be used for all certifications reflective of the national average through a Housing Program Notice. Please refer to Notice H 2014-15 HUD. http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg .
  If the total cash value of all assets owned by the household is $5,000 or greater, include in annual income the larger amount of either the actual income derived from the assets or an imputed amount, which is calculated by multiplying the total cash value of all assets owned by the household times the current passbook savings rate.

A determination of all annual income of each person residing in a household is required (per Section 8 definition of income). Source income documentation (wage statements, interest statements, unemployment compensation) for a minimum of 2 months must be used to determine family's eligibility. Sample verification forms can be found on the PHFA website. When all verifications have been received, the owner or agent must complete a Tenant Income Certification (TIC) form.

The PennHOMES Program requires that a minimum of 50 percent of the units with PennHomes funding be leased to residents whose incomes do not exceed 50 percent of the area median income, adjusted by family size. The remaining units must be leased to residents whose incomes do not exceed 60 percent of the area median income, adjusted by family size.

B. Income/Rent Limits

The U.S. Department of Housing and Urban Development (HUD) publishes median income information for Pennsylvania, which is broken down into local areas, such as county or metropolitan areas. These limits are published by HUD on an annual basis. PHFA calculates building specific rent and income limits via our Automated Web Entry System based upon data previously submitted by the owner for each property.

C. Rent Restrictions

The PennHOMES income limit charts contain the rent for each county. PennHOMES rents must be restricted as follows:

LOW PennHOMES Rents (40/50 percent) - A minimum of 50 percent of units must not exceed the Low PennHOMES Rents. These units must be affordable to households with incomes at or below 50 percent of the area median income.

HIGH PennHOMES Rents (60 percent) - The remaining units must not exceed the High PennHOMES Rents. These units must be affordable to household with incomes at or below 60 percent of the area median income.

- Proposed rent limits must be submitted to the Agency each year with the annual budget for review and approval.

- No rents will be approved that are out of compliance with HOME regulations or that demonstrate an undue increase from a prior year.

- Total rent limits must include the rent plus the utilities.

When a PennHOMES household receives Tenant-Based Assistance provided by the Section 8 Housing Choice Voucher Program, HOME, or another funding source, the tenant's rental assistance payment (subsidy) plus the tenant's contribution towards rent and utilities cannot exceed the PennHOMES rent. If a PennHOMES unit is also a LIHTC unit, the rent for the unit cannot exceed the lesser of the PennHOMES rent limit or the LIHTC rent limit.

The exception to the above rule is for units that have federal and/or state project-based rental assistance and are occupied by families who have incomes below 50 percent of the area median income. If the units have project-based subsidy and not tenant-based, then the allowable rent is the maximum rent allowed under the subsidy program.

Determining the maximum rent to request for a tenant based voucher when the property is using the local utility estimate instead of the Public Housing Authority (PHA) utility allowance.:

To determine the maximum rent allowed, the owner must deduct the PHFA approved local utility estimate from the PennHOMES without Tax Credits rent limit and the PHA Utility Allowance from the LIHTC rent limit. The maximum rent will be the lesser of the two.

The utility allowance comparison is used to comply with the LIHTC requirement for using the Public Housing Existing Utility Allowance for residents receiving Tenant-based Rental Assistance. Where a local utility company estimate has been obtained for a building and tenant-based rental assistance holders move into one or more of these units, the use of the Public Housing Existing Utility Allowance would apply only to those units.

For further guidance on utility allowances, please contact PHFA's Technical Services Department at 717.780.1846.

D. Rent Change Procedure

Prior to the Agency loan commitment, a market analysis is completed to establish appropriate market rents for the property. The Agency posts county-wide maximum rent and income limit charts on the Agency website annually.

Changes in Area Median Income limits over time may require reductions in rents. Regardless of these changes, rents are not required to be lower than the PennHOMES rents effective at the time of the Agency loan commitment. These rents are included in the Regulatory Agreement.

When rent limits have increased, owner may not raise rents in occupied units immediately. Rents may be increased at the point in time specified in the lease, or if not specified, at a time customary for periodic adjustments in rent.

Rents may never exceed the maximum allowable rents applicable to the funding program. Refer to the property's Regulatory Agreement and Restrictive Covenant Agreement, if applicable.

Rents must be submitted and approved by PHFA before any change in the rents may be implemented.

E. Resident Selection Criteria

An owner of rental housing assisted with Penn HOMES funds must adopt written resident selection policies and criteria that:

1) Are consistent with the purpose of providing housing for very low-income and low-income families;

2) Are related to program eligibility and the applicant's ability to perform the obligations of the lease;

3) Provide for the selection of program eligible residents from a waiting list maintained in the chronological order of their application, insofar as is practicable; and

4) Give prompt written notification to any rejected applicant of the grounds for any rejection.

5) Section 8 voucher holders may not be refused based solely upon their status as a voucher holder, but must be otherwise eligible.

6) The HOME program adopts the Section 8 Housing Choice Voucher (HCV) program restrictions on student participation found at 24CFR 5.162, which exclude any student that:
    1. Is enrolled in a higher education institution.
    2. Is under age 24.
    3. Is not a veteran of the U.S. military.
    4. Is not married.
    5. Does not have dependent child(ren).
    6. Is not a person with disabilities.
    7. Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income.

    **Excluded students are PROHIBITED from receiving any type of HOME assistance, including renting HOME-assisted units.

7) Owner must adopt and follow their resident selection policies and criteria.

- NOTE: See Chapter 3 for further information.

- NOTE: Properties with LIHTC must accept same-sex couples where all residents are full time students if all the adults in the unit are married.

- It does not matter if the residents live in a state that does not recognize same-sex marriage, as long as they were legally married in a state that does.

- This ruling applies to legal marriages, but does not apply to civil unions, registered domestic partnerships or other legal relationships.

F. Lease Requirements

- HOME rental units must be leased to low or very low income families.

- The leasing of HOME units by organizations that rent to individuals is not permitted.

- Written leases are required for all HOME assisted units.

- Leases must be for one year unless otherwise mutually agreed between the tenant and the project owner/landlord.

- Total rent limits must include the rent plus the utilities.

- A lease may not require a tenant to accept supportive services (except for residents of transitional housing). If a tenant fails to participate in required supportive services for transitional housing, the lease may be terminated.

- Leases may only be non-renewed or terminated for:

  - Good cause,
  - Repeated lease violations;
  - Violations of federal, state, or local law, or
  - Completion of tenancy for transitional housing.

An increase in a tenant's income does **not** constitute good cause for termination or non-renewal.

See Chapter 6 for specific prohibited and required lease terms and requirements.

G. Certification Procedures

Initially and each year thereafter, owners must certify the eligibility of each household. Effective dates of annual recertifications should be the first day of the month the house hold first occupied the unit. HUD/USDA"Preservation" properties with PennHOMES only funding begin recertifications when the HUD/USDA mortgage is paid off.

If 100% of property units are PennHOMES and LIHTC funded, the property qualifies for the exemption from full annual recertifications and the Alternate Certification forms may be used.

The PennHOMES requirement to recertify the household using source documentation of income and assets every sixth year applies. If at recertification the resident is determined to be over-income for the PennHOMES program (80% of the Area Median Income) the rent will remain controlled in accordance with tax credit rent. A HOME adjustment calculation does not have to be performed. Please see the LOW INCOME TAX CREDIT COMPLIANCE MANUAL if the household is over 140% of Area Median Income.

H. Other Compliance Requirements

1. Rent-Up

Rent-up Meeting

- A meeting which is usually held 90 days before construction is completed on the property, affords the owner, management agent and financial contact the opportunity to meet with the Agency staff assigned to the development to discuss the specific program requirements.
- Quarterly Rent Up Reports – Begin when initial certificate of occupancy is received and continue until property is fully leased.
  - If the property is not completely leased up at six months, the owner must evaluate current marketing efforts and provide the Agency with an enhanced marketing plan. Monthly occupancy updates must be provided to the Agency.
  - If units remain vacant at 18 months, repayment of HOME fund procedures must be implemented.

2. Project History Form

The Project History Form, Part 1 & 2, is to be completed and brought to the rent-up meeting or submitted to the Agency no later than 30 days after the rent-up meeting.

3. Occupancy Reporting

See Chapter 11 for specific monthly reporting requirements.

4. Management Review

The property owner or agent must notify the HMR when a newly developed property is 50 percent occupied. The HMR will then begin a 100% file examination and management review. On-site management reviews will be performed by the HMR at least once each year for properties with 12 or more units. The review of properties with 11 (eleven) or fewer units may be done remotely (desk review) and will include a review of selected files and all documents listed under Section I, Record Keeping Requirements. Eleven (11) and under desk reviews may be performed every other year.

I. Record Keeping Requirements

The following documents must be retained in each resident file:

1. Rental Application Form.
2. Tenant Income Certification (TIC) Form.
3. Third-Party/Source Verifications.
4. Residential Lease.
5. Lead-Based Paint Disclosure, if applicable.

The following documents must be retained at the property:

1. Marketing and Management Plan.
2. Affirmative Fair Housing Marketing Plan (AFHMP).
3. Utility Allowance Documentation.
4. Resident Grievance Procedure.
5. Reasonable Accommodation Policy.

Additional Record Keeping Requirements (for Non-PJs Only)

1. Resident Participation Plan (CHDOs only). See Chapter 17 of this Manual.
2. Affirmative Action Plan.
3. Section 504 Self-Evaluation and Transition Plan.

J. Reporting Requirements

The following reporting documents must be submitted to the Agency on an annual basis and a signed and dated copy retained at the rental office.

1. PennHOMES Annual Report, with attachments.
2. Utility Allowance information.
3. Corrective Action Plan when the AFHMP is not deemed a success.

Properties with PennHOMES and Tax Credits must use the PHFA On-Line Compliance System accessed through www.phfa.org. Each Tenant Income Certification (TIC) or Alternative Certification must be entered at the time of certification or if software is compatible, uploaded in a timely manner, preferably monthly. Income and Rent Limits for each building in a property are also available through this on-line system. In addition to submitting the PennHOMES Annual Report with Attachments electronically, if LIHTC, the Owner's Certification of Continuing Program Compliance must be completed and submitted by January 31. A signed and dated copy must be available in the management office.

K. Record Retention

All record keeping and reporting documents as listed above must be retained for five years after the property completion date; except that records of individual resident income verifications, property rents, and property inspections must be retained for the most recent five-year period, until five years after the affordability period terminates. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and the resolution of all issues which arise from it or until the end of the required period, whichever is later.

All records must be available upon request for Agency staff review.

If the property has LIHTC units, refer to the Low-Income Housing Tax Credit Compliance Manual for further guidance.

L. On-Site Manager's Unit

Owner must provide a formal written request to the Agency for approval to add an on-site manager unit. The Agency will determine if there is a need for the unit to contribute to the stability of a property. Only a multi-unit rental property with 100% HOME assisted units is eligible.

M. Reasonable Fees

Owners may not charge fees to tenants that are not reasonable or customary, such as a monthly fee to use laundry facilities. Examples of reasonable fees would be charging a reasonable application fee to prospective tenants or the cost of non-mandatory services such as meal or bus service. Fees charged to residents must be approved by the Agency, be reflected in the property's annual budget, and be part of the property's Management Plan.

N. Converting Rental Units to Homeownership Units for Existing Tenants

If the owner was approved by the Agency to provide Homeownership units to existing residents at the end of the 15 year compliance period, owners must inform residents of their right not to be evicted in the event of a conversion of the property. Further, owners must explain to residents the HOME requirements that will apply to them should they purchase the unit (principal residency requirements, resale or recapture provisions, remaining affordability period, etc.) See HOME final rule 92.254(a)(4).

O. Affirmative Marketing Procedures / Tenant Preferences

Affirmative marketing procedures apply to all HOME-funded programs and must be tailored to the type and size of the project.

If the project is approved by the Agency to implement tenant preferences (preferences MUST be approved by the Agency prior to implementation via written agreement), affirmative marketing procedures must be in place that apply in the context of the limited/preferred tenant selection policies. (Example, a project for victims of domestic violence must be marketed to the universe of persons who would meet the preference. The project could not rely solely on referrals from a specific provider when there are other providers with potential applicants in the market area).

Policies/procedures must not only be adopted, but they must be followed. See HOME Final Rule Section 92.351 for specific items the plan must address.

P. VAWA

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) impacts all HOME funded projects. On August 6, 2013, HUD published a notice describing the impacts of the VAWA Act and the new housing protections in that law that will have implications for HOME program grantees.

VAWA 2013:

- Bars eviction and termination due to a tenant’s status as a victim of domestic violence, dating violence, or stalking, and requires owners to maintain survivor-tenant confidentiality.
- Prohibits a tenant who is a survivor of domestic violence, dating violence, sexual assault, and stalking from being denied assistance, tenancy, or occupancy rights based solely on criminal activity related to an act of violence committed against them.
- Extends housing protections to survivors of sexual assault, and adds “intimate partner” to the list of eligible relationships. Protections also cover an “affiliated individual,” (any lawful occupant living in the survivor’s household, or related to the survivor by blood or marriage including the survivor’s spouse, parent, brother, sister, child, etc).
- Permits a lease bifurcation so a lawful occupant of the unit who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, may be evicted or removed without evicting or otherwise penalizing a victim who is a tenant / lawful occupant.
- Requires that each owner develop a Notice of Rights and provide the notice at the time a person applies for housing, when a person is admitted as a tenant, and when a tenant is threatened with eviction or termination of housing benefits.

- Extends the documentation and confidentiality requirements.
- Requires owners to adopt a model emergency transfer plan.
    - The tenant must request an emergency transfer and reasonably believe that they are being threatened with imminent harm if they remain in the same unit.

NOTE: If an owner refuses to rent, evicts, or otherwise treats someone differently because of that person's status as a victim of domestic violence, dating violence, sexual assault, or stalking, HUD or the courts may issue a violation under the Fair Housing Act due to discrimination, unequal treatment, or disparate impact.

Visit www.hud.gov for additional information.

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