

LEASES, SECURITY DEPOSITS, ADDENDA, PREFERENCES, AND PETS IN ELDERLY PROPERTIES

Owner/agents must execute an initial residential lease agreement for every assisted resident in the development. HUD mandates owners must use one of four model leases prescribed by HUD. These model leases are contained in the HUD Handbook 4350.3. REV 1. The lease the owner uses depends on the program being administered. These leases must not be altered in any way. Additions to the leases must be in the form of lease addendums.

The Agency recommends preparation of the lease addendums with advice from the owner's legal counsel. PHFA will review all lease addendums and attachments to assure compliance with HUD rules and regulations. The following documents are attachments that may be incorporated into the lease:

- a. Form HUD 50059 and worksheet, Certification and Recertification of Tenant Eligibility. Refer to the HUD Handbook 4350.3.
- b. Unit Inspection Report. Refer to the HUD Handbook 4350.3.
- c. Resident Handbook, which must be completed by the management agent.
- d. Pet Policy, where applicable. Sample pet rules are included in this Chapter.
- e. Sample Accessible Unit Addendum for persons occupying accessible units that do not require the features (included in this Chapter).
- f. Sample Lead Based Paint Addendum (included in this Chapter.)

Copies of applicable attachments should be maintained in the tenant file.

Before implementing any lease addendums or attachments, owners must obtain written approval from HUD or PHFA.

CHAPTER 7 LEASES, SECURITY DEPOSITS, ADDENDA, PREFERENCES & PETS IN ELDERLY PROPERTIES

Lease Information

All lease terms must be in compliance with the HUD Handbook 4350.3. REV 1

The head of household, spouse, any individual listed as co-head, and all adult members of the household must sign the lease. The owner, management agent, and/or resident manager (on behalf of the owner) must execute the lease agreement.

Accessible units must be assigned in the following order:

- a. Current tenant household who requires the accessibility features of the unit.
- b. The next eligible applicant who has a statutory program preference and requires the accessibility features of the unit.
- c. The next eligible applicant with a HUD or owner preference requiring the features of the unit. Note: State, local or residency preferences must be approved by HUD.
- d. The next non-preference applicant who requires the features of the unit.
- e. Finally, to applicants who do not need the features of the unit. The owner must use an addendum that requires a tenant to transfer when a nonaccessible unit becomes available. A sample lease addendum is included in this Chapter.

Live-in Aide

Health care providers must document the need for a live-in aide. The definition of a live-in aide is recorded in 24 CFR Section 5.403 which states that a live-in aide is a person who resides with one or more elderly persons, near elderly persons or persons with disabilities and who is: (1) determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the unit except to provide the necessary supportive services. It should be noted that the definition applies to a specific person. In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the unit as a remaining family member. Additional guidance on live-in aide is available in the HUD Handbook 4350.3 REV 1.

CHAPTER 7 LEASES, SECURITY DEPOSITS, ADDENDA, PREFERENCES & PETS IN ELDERLY PROPERTIES

Security Deposits

HUD recommends the collection of security deposits; however, the owner must collect a security deposit at the time of the initial lease execution for the following properties: Section 8 New Construction with an AHAP executed on or after November 5, 1979; Section 8 Substantial Rehabilitation with an AHAP executed on or after February 20, 1980; Section 8 State Agency with an AHAP executed on or after February 29, 1980. HUD requires the collection in full of the security deposit as a prerequisite for making a claim for reimbursement of unpaid rent and resident damages. All security deposits are to be calculated and processed in accordance with HUD Handbook 4350.3. REV 1.

The following are a few HUD requirements regarding the collection of security deposits:

- Security deposits must equal the Total Tenant Payment (TTP) for all Section 8 projects that have an Agreement to Enter Into Housing Assistance Payments (AHAP) Contract date prior to November 5, 1979. The owners must also invest these deposits in an interest-bearing account. (See chart provided in this Chapter.)
- All other Section 8 projects collect the greater of the Total Tenant Payment (TTP) or \$50. Section 8 Substantial Rehabilitation units with AHAPs on or after February 20, 1980, as well as new construction units with contracts after November 5, 1979, must also invest the security deposit in an interest-bearing account.
- Interest on security deposits may be credited to the account or returned to the resident in accordance with state law. There is no HUD regulation governing the return of the interest during occupancy.
- Security deposit must be returned to the resident within 30 days according to HUD regulations and Pennsylvania Landlord-Tenant Law. A list of damages, costs to repair, and other charges must be included, if applicable.

Preferences

- Extremely Low Income/Income Targeting: The owner must lease not less than 40% of the assisted units in the project that become vacant in any fiscal year to extremely low-income applicants (ELI). The income limit for extremely income is 30% of median income.
- Federal preferences have been permanently suspended; however, owners may choose to use the definitions as an owner preference.

CHAPTER 7 LEASES, SECURITY DEPOSITS, ADDENDA, PREFERENCES & PETS IN ELDERLY PROPERTIES

- Statutory Program Preferences include:
 - In Section 8 elderly developments that are covered by the mixed population rule, the owner may elect to give a preference to elderly families over the disabled by setting aside a specific number of units for nonelderly disabled applicants.
 - HUD requires that Section 236 properties give a preference to families displaced by government action or federally recognized disaster. Some Section 236 developments are also mandated by HUD to give a preference to military personnel.
 - Other preferences, i.e., state, local and owner, must be approved by HUD prior to implementation.

Pets in Elderly Projects

Effective May 1, 1987, Section 227 of the 1983 Housing and Urban and Rural Recovery Act provides that no owner or manager, of a project designed for the elderly or persons with a handicap or disability, may discriminate against applicants or prohibit residents from having common household pets in their units. A copy of the Pet Rule must be maintained in the resident file. This regulation is not applicable for assistive animals or for properties designed for family occupancy, regardless of the fact that they contain residents who are elderly or disabled.

For the purposes of this regulation, an assistive or service animal used by persons with disabilities is not considered a pet.

Refer to Chapter 6, HUD 4350.3, for specific requirements regarding pets, as well as reasonable guidance regarding assistive animals.

**CHAPTER 7
LEASES, SECURITY DEPOSITS, ADDENDA, PREFERENCES &
PETS IN ELDERLY PROPERTIES**

LEASE ADDENDUM ACCESSIBLE UNIT

This addendum to the Lease Agreement between _____ **(Name of Property)** _____ and _____ **(Resident)** _____ entered into on _____ constitutes an attachment to the Residential Lease Agreement.

In order to comply with Section 8.27 of Section 504 of the Rehabilitation Act of 1973, property owners must lease units designed for persons with disabilities to occupants requiring the accessibility features of the unit.

_____ **(Resident)** _____ has been offered an apartment designed for accessibility by a person with a disability and _____ **(Resident)** _____ does not have disabilities requiring such features and hereby agrees to move to a nonaccessible unit upon the request of the owner. The owner will pay all moving expenses. Such request will be made in writing 30 days prior to the effective date of a required move to a nonaccessible unit. By signing below, _____ **(Resident)** _____ agrees to the terms and conditions in this Lease Addendum.

Resident

Date

Resident

Date

Landlord

**CHAPTER 7
LEASES, SECURITY DEPOSITS, ADDENDA, PREFERENCES &
PETS IN ELDERLY PROPERTIES**

Sample Disclosure Format for Target Housing Rentals and Leases
Disclosure of Information of Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure (initial)

____(a) Presence of lead-based paint and/or lead-based paint hazards (check one below):

Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

____(b) Records and reports available to the lessor (check one below):

Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

____(c) Lessee has received copies of all information listed above.

____(d) Lessee has received the pamphlet ***Protect Your Family from Lead in Your Home***.

Agent's Acknowledgment (initial)

____(e) Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify to the best of their knowledge that the information they have provided is true and accurate.

Lessor	Date	Lessor	Date
Lessee	Date	Lessee	Date
Agent	Date	Agent	Date

**CHAPTER 7
LEASES, SECURITY DEPOSITS, ADDENDA, PREFERENCES &
PETS IN ELDERLY PROPERTIES**

Links

Mandatory and Discretionary Pet Rules

HUD Model Lease for Subsidized Programs – Form HUD 90105-A

HUD Handbook 4350.3 REV 1 Sample Move in/Out Inspection Form (Appendix 5)

Pennsylvania Landlord Tenant Act