

Resident's Guide - Tax Credit Sites

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RESIDENT/PROSPECTIVE RESIDENT GUIDE TAX CREDIT SITES

I. Overview

This resident guide is provided for use by residents living in rental housing under the Section 42 low-income housing tax credit program. While it is not a complete guide to the Section 42 program, it can be utilized as a resource guide for residents to better understand the program. It is a basic introduction only and is not inclusive of other blended affordable program regulations that might be in place at different properties.

The scope of this guide will include program eligibility, rent restrictions, resident protections, and resident responsibilities under the tax credit program only. This resident guide does not discuss the full compliance requirements of the Section 42 tax credit program. This document is meant to be a resource only for residents or potential residents of Section 42 housing.

II. Introduction

The Section 42 low-income housing tax credit program, also called the rental housing tax credit program, is a federal program governed by the Internal Revenue Service (IRS). The purpose of the program is to provide tax credit incentives to property owners and developers to create affordable housing. In exchange for these tax credits, the property owners/developers must agree to restrict occupancy in their tax credit units to program eligible households, to follow rent restrictions, and to keep housing safe and sanitary.

The compliance for the Section 42 affordable program has been assigned in each state to a designated “housing finance authority”. These state housing agencies conduct compliance file audits, physical inspections, and annual reviews on all Section 42 properties to ensure continuing compliance with program guidelines. These housing agencies do not own or manage any properties. Interested applicants must apply at Section 42 designated sites directly. It is further recommended, that prospective residents access the website for the monitoring agency in their state for

further guidance regarding possible lists of active Section 42 prc their state.

III. Program Eligibility

A household must meet two tests in order to be eligible for tax credit housing. First, the household must be income eligible. Second, the household must meet the program's student status rule. Before the discussion of these two rules however, it is necessary to first understand the definition of a household.

A. Household Size

Income limits are based on the number of individuals that will be living in the unit. For the purposes of determining household size, a household includes all individuals that will reside in the unit, whether or not those individuals are related. This includes individuals that are temporarily absent from the home (such as children away at school), unborn children, children in joint custody agreements that will reside at least 50% of the time in the unit, and foster children/adults. There are some special rules related to households:

- The household members get to choose whether or not to include a member who is permanently confined to a hospital or nursing home.
- Military members away on active duty are only counted in household size if they are the head, or co-head, or if they leave behind a spouse or dependent child in the unit.
- Live-in aides and guests are not counted in household size.

B. Income Eligibility

Once household size has been determined, this number is used to determine the correct income limit to apply. The US Department of Housing and Urban Development (HUD) annually releases program income limits based on household size. Each county has it's own income limits.

- **Unit Designations**

Section 42 program units are designated for households at 30%, 40%, 50%, or 60% of the area median income (AMI). A unit will be designated for occupancy at one of these four (4) levels. A unit can be occupied by a household with an income below the limit. Therefore, a unit designated at 60% could have an household at 30% AMI move into it, but a unit designated at 30% could NOT have a household at 60% AMI move into it.

- **Methodology for Determining Income**

Income eligibility is determined by looking at all earned, unearned, and asset income in the household.

- Earned Income- Employment or self-employment.
- Unearned Income-Social security, child support, contributions, pensions, un-employment benefits, etc.
- Asset Income- Interest from bank accounts, pensions receiving interest, oil/land royalties, whole life insurance, etc.

The total household income from all household members from all sources (except those sources specifically excluded by program regulations) must be at or below the income limit at the time of move-in.

Example: If a household has 4 members and they wanted to move into a unit designated at 50% area median income, the property manager would have to determine household income and make sure that the income is at or below the 4 person 50% income limit in effect. If the household income was above this limit, then the household would not be eligible to move-in.

C. Student Eligibility

The Section 42 affordable housing program was specifically designed to prohibit the use of the program to create dormitories or other student housing. Therefore, households in which all members are full-time students are generally ineligible to live in tax credit units. The definition of a full-time student is “an individual who was a full-time student (based on the definition of full-time used by the school they attend) for five or more months out of the calendar year.

Exception to the Rule: A household that consists entirely of full-time students may still be eligible for the Section 42 affordable housing program if a certain exemption is met. The following may qualify a full-time student for an exemption:

- **Previous foster care - If you or another person in the household has been in the foster care system as a child.**
- **Receiving TANF (Temporary Assistance for Needy Families) assistance**
- **Job training programs-receiving assistance under JTPA (Job Training Public Assistance.**
- **Single parent with dependent child**
- **Married and entitled to file a joint tax return**

When applying for housing, each household must complete a student questionnaire. This questionnaire will walk the applicant through all possible student exceptions. If all members are full-time students but an allowable exception can be documented, then the household will be considered eligible.

D. Applying for Section 42 Housing

Site-based applicant wait lists are maintained at each site, therefore each individual must apply for Section 42 housing at the property in which they want to reside. The application process will include the completion of an income and asset questionnaire as well as a student status questionnaire. Any income or assets noted on these

applications/questionnaires must be verified through third-party sources. Management will use these third-party verifications to calculate income for the household. After eligibility has been verified, the household must sign a “Resident Income Certification” form certifying that all information provided was correct and that the calculated household income is accurate.

E. Resident Selection

Each property may create additional eligibility screening requirements. Such requirements may include:

- Criminal background checks
- Previous landlord history background checks
- Credit history requirements
- Limits on the number of household members permitted to reside in a unit based on number of bedrooms in the unit; and
- A minimum income requirement

Each property must create a written “resident selection criteria” document to explain how applications will be processed and evaluated. This same “eligibility” rental criteria must be applied to all applicants. The written resident selection criteria policy will also outline the waiting list procedure used at the property.

All Section 42 properties must comply with the program regulations regarding income and student status eligibility.

IV. Rent Restrictions

All Section 42-tax credit program units are rent-restricted. These restrictions may be rent restricted at 30%, 40%, 50%, or 60% of the area median income (AMI). All units will be designated as rent-restricted at one of these levels. These levels are set by the US Department of Housing and Urban Development (HUD) on an annual basis. These program rent limits are based on the number of bedrooms in the unit.

If residents are responsible for paying for their own utilities, property must utilize a “utility allowance.” This is an estimate of the average monthly utility costs for a unit. The property may commission an independent utility cost study or utilize the local housing agency Section 8 utility allowances.

To determine the actual rent that can be charged, the property manager must deduct the utility allowance from the rent limit in the chart released by HUD.

For example, a household lives in a two-bedroom unit designated at 50%. The HUD chart says that the rent limit for a two-bedroom unit at 50% in that county is \$550. The utility allowance for a two-bedroom unit at the property is \$150. The maximum amount of rent that can be charged to the household is \$400 (\$550 rent limit minus \$150 utility allowance).

V. Resident Protections

Residents are provided a number of protections under the Section 42 tax credit program.

A. Rent Protection

All tax credit units are rent-restricted units.

B. Income Eligibility

Income eligibility is based on the household income at the time of initial move-in. Subsequent income increases do not make the household ineligible to remain in the unit. However, if the building has a mix of market rate and program units, a household that reaches 140% of the income limit may be converted to a market unit and lose its rent-restricted status at re-certification.

NOTE: There is no such protection against future changes in student status. If a household fails to be student status qualified

after the time of initial move-in, the household no eligible to remain in the unit.

C. Section 8 Vouchers Accepted

Section 42 properties cannot refuse to accept Section 8 vouchers. However, voucher holders must meet all other eligibility and resident selection criteria in order to be eligible.

D. Fair Housing

All Section 42, tax credit properties are subject to the Federal Fair Housing Act. Properties may not discriminate based on the seven protected classes: race, color, national origin, familial status, disability, religion, or sex. The property must also allow reasonable accommodation and modification requests in accordance with the Fair Housing Act requirement.

E. No Eviction Without Good Cause

Section 42 or tax credit sites may not evict or non-renew leases without good cause. Good cause can be generally defined as material violations of the lease, such as non-payment of rent, damage to property, failure to follow property rules, interference with other residents, or fraud. Good cause is further defined by the lease and is ultimately up to the determination of the court system.

VI. Resident Responsibilities

All households accepted into Section 42 housing must enter into a lease agreement and various affordable addendums.

All applicants and residents are responsible for completely and accurately reporting information related to household size, income and asset sources, and student eligibility. This includes complying with requests for information in a timely manner, both at the time of initial application as well as at annual recertification.

Annual Recertification of Household Income

All households living in a mixed income project must recertify their income and assets, each year. The annual recertification process starts up to 120 days prior to the anniversary date of move-in. Therefore, the effective date of annual recertifications may not always correspond with lease renewals. Annual recertifications must be completed even if the household plans on vacating their unit at the end of their lease or within a couple of months following the expiration of a 12-month certification period. A late annual recertification is a violation of the LIHTC program.

Recertifications for households living on a 100-percent Low-income project are not required to complete a full annual recertification. Instead they must complete an AEC (annual eligibility certification), this form reports changes in household size and student status. This process also starts up to 120 days prior to the anniversary date of move-in and a late AEC is also a violation of the LIHTC program.

Withholding or providing false information concerning income and asset sources is grounds for denial (for applicants) or eviction (for existing residents). In addition, residents committing fraud can be reported to the IRS.

Residents are responsible for complying with all community rules and lease terms.

In addition, residents need to be aware and understand that their units will be inspected at least on an annual basis, and housekeeping inspections will possibly be completed at recertification. Sometimes inspections will be performed more often depending on whether there are other affordable programs in place on their property. The purpose of such inspections is to ensure that the property and the units are being maintained in a condition that provides decent, safe, and sanitary housing. Residents must comply when their units are scheduled for inspection.

VII. Common Misconceptions

Below is a list of common misconceptions about the Section 42 tax credit program:

Rent is not based directly on household income as it is with some HUD programs. Rent under the Section 42 program is based upon a set-aside designation assigned to the unit. Therefore, two households with significantly different incomes can be asked to pay the same rent if they are residing in units designated at the same set-aside.

Section 42 is not a subsidy program. While Section 42 sites may receive other sources of funding that offer rental assistance, the Section 42 program on its own does not provide rental assistance.

The tax credit under Section 42 is for the owner/developer of the property, not for the residents. The benefit of the program to the residents is that the rents are restricted, and the properties are subject to physical inspections to ensure that they are kept in good physical condition at all times. There is no special tax credit benefit or credit available for residents who reside on Section 42 properties.

VIII. Complaints

Resident complaints should always be directed first to the onsite property management staff and manager. When a complaint cannot be resolved between the resident and the onsite management staff, the resident may call the Regional Supervisor for Allied Orion at 713-622-5844 or direct a survey card found on the Orion website at survey.allied-orion.com to the Vice-President of Housing. All program-related complaints or complaints received about the physical condition of the property will be prioritized and addressed with the appropriate staff.