

# ROBERT SMALLS APARTMENTS

## HUD APPROVED RESIDENT SELECTION

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**Robert Smalls Apartments**

**561 Wofford Street  
Spartanbur, SC 29301**

**TENANT SELECTION PLAN**

**INTRODUCTION:** The procedures used for selection of residents shall be implemented in compliance with the Department of Housing and Urban Development (HUD) Handbook 4350.3, as amended, and all other applicable federal statutes and regulations.

**NON-DISCRIMINATION:** The management agent shall comply with all federal, state and local fair housing and civil rights laws and with all equal opportunity requirements as required by law, including without limitation HUD administrative procedures. Federal laws forbid discrimination based on race, color, creed, religion, sex, age, disability, familial status, national origin or any other Federal, State or Local protected individuals. Discrimination against a particular social or economic class is also prohibited (for example: welfare recipients: single parent households, etc.) These requirements apply to all aspects of Resident relations including without limitation: accepting and processing applications, selecting residents from among eligible applicants on the Wait List, assigning units, certifying and re-certifying eligibility for assistance and terminating residency.

**PRIVACY POLICY:** It is the policy of the Property to guard the privacy of individuals conferred by the Federal Privacy Act of 1974 and the Health Insurance Portability & Accountability Act of 1996 (HIPAA) to ensure the protection of such individuals' records maintained by the Property.

Therefore, neither the Property nor its agents shall disclose any personal information contained in its records to any person or agency unless the individual about whom information is requested shall give written consent to such disclosure.

This Privacy Policy in no way limits the Property's ability to collect such information as it may need to determine eligibility, compute rent, or determine an applicant's suitability for residency. Consistent with the intent of Section 504 of the Rehabilitation Act of 1973, any information obtained on disability will be treated in a confidential manner.

**OCCUPANCY STANDARDS:** In order to provide decent, safe and sanitary housing, the Resident must comply with the unit size standards established for Robert Smalls Apartments. When an applicant(s) applies for an apartment, they may select the size, floor, type (standard or special design features of accessible unit) of the apartment that they would prefer, within the minimum and maximum occupancy guidelines. Family size and composition must be compatible for units available at the property. In general, the maximum occupancy policy of, "two persons per bedroom" has been adopted at the community. A qualified staff member of Robert Smalls Apartments will advise applicants of the number of unit types available in the development, and the general length of each Wait List, to assist applicants in selecting the approved bedroom type of their choice. The minimum and maximum occupancy guidelines are as follows:

| <u>Unit Size</u> | <u>Minimum</u> | <u>Maximum</u> |
|------------------|----------------|----------------|
| Efficiency       | 1 Person       | 2 People       |
| One Bedroom      | 1 Person       | 2 People       |
| Two Bedroom      | 2 People       | 4 People       |
| Three Bedroom    | 3 People       | 6 People       |
| Four Bedroom     | 4 People       | 8 People       |
| Five Bedroom     | 5 People       | 10 People      |

1. A maximum of "two persons per bedroom" has been applied at the community. Family composition (age differences between children and relationships of adults) and a verifiable medical reason for an alternative amount of people per bedroom will be taken into consideration.
2. Single persons do not qualify for 2 bedroom units unless:
  - A person with a verifiable disability who needs the larger unit as a reasonable accommodation; or,

- A displaced person when no appropriate size unit is available but who agrees in writing to transfer to another unit when one becomes available; or
  - An elderly person who has a verifiable need for a larger unit; or,
  - A remaining family member when no appropriate sized unit is available.
3. The need of a Live in Aide should be considered when counting family members in the family size of the unit. (If a relative is considered to be a Live-in Aide, they must meet the three (3) definitions of a Live-in Aide and must sign a Live-in Aide Questionnaire/Agreement. The 3 definitions include the following: A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and (1) who is determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; (3) and would not be living in the unit except to provide the necessary supportive services.
  4. “Temporarily absent” household members and “permanently confined” household members must be taken into consideration for family size/composition. (While it is the option of the household to include a “permanently confined” member in the family size of the unit, the “permanently confined” member cannot be named as Head of Household, Spouse or Co-Head. If the family chooses to include this member, all income and allowable deductions related to the medical care of the permanently confined individual are counted.)

**DETERMINING UNIT SIZE AT MOVE-IN:** The management agent must balance the need to avoid overcrowding with the need to make the best use of available space and to avoid unnecessary subsidy. To determine how many bedrooms a Family may have, the management agent shall count:

- a. All full time members of the household;
- b. Children who are away at school but live with the Family during school recesses;
- c. Children who are subject to a joint custody agreement but live in the unit at least 50% of the time;
- d. An unborn child; or, children who are in the process of being adopted or whose custody is being obtained by an adult; foster children or children who are temporarily absent due to placement in a foster home;
- e. Live-in aide attendants;
- f. Foster adults living in the unit;
- g. Permanently confined family member (counted only if the family so chooses). The family member that is permanently confined cannot be named as head, spouse or co-head. If the family chooses to include the individual as a family member their income and allowable deductions related to the medical care of the permanently confined individual are counted. If the family chooses to count the permanently confined member, they should be listed on the 50059 as an adult that is not a head, spouse or co-head even when the permanently confined family member is married to the person who is or will become the head of the family. Due to extenuating circumstances, if the permanently confined member is unable to sign the 50059, management must document the file why the signature could not be obtained.

When determining unit size, Management will take into consideration:

1. The number of persons in a family;
2. The age, sex and relationship of family members;
3. The family’s need for a larger unit as a reasonable accommodation; and
4. Balancing the need to avoid overcrowding with the need to avoid underutilization of the space and unnecessary subsidy.

The management agent shall not provide bedroom space for persons who are not members of the household, such as adult children on active military duty, children who are away at school and have established residency at another

address (signed a lease), permanently institutionalized Family members or visitors. Generally, no more than two persons may occupy a bedroom. Household composition will be considered when applying this general rule.

**ELIGIBILITY FOR RENTAL ASSISTANCE:** Robert Smalls Apartments is a designated Family property. Families who meet the following criteria are eligible:

1. The household's annual income may not exceed the applicable Income Limit. (The limits that apply vary by county. Current maximum income limits are based on the number of persons in the household. The applicable Income Limits are posted in the rental office.) **The income limits used to determine eligibility are pursuant to the provisions of Section 8 of the United States Housing Act of 1937 and Tax Credit Program. Section 8 subsidy (pre 1981) must be provided to low, very low, and extremely low-income residents. Section 8 subsidy (post 1981) must be provided to very low, and extremely low-income residents.**
2. The unit must be the Family's only residence. At the time of admission, the Applicant may not be receiving Section 8 assistance on another housing unit.
3. Double Subsidy
  - Residents must not benefit from Housing Choice Voucher assistance in a unit already assisted through project-based Section 8. The applicant must move out of the current property and/or forfeit any voucher before HUD assistance on this property will begin.
  - This prohibition does not prevent a person who is currently receiving assistance from applying for an assisted unit in another property. The assisted residency in the unit being vacated must end the day before the subsidy begins in the new unit.
4. Household must meet citizenship or immigration status requirements as follows: (All family members regardless of age must declare their citizenship or immigration status.)

Only U.S. Citizens/nationals and eligible Non-citizens qualify for federal rental assistance. Verification of citizenship and eligible non-citizens are verified by a Citizenship Declaration form prior to move-in. The Citizenship Declaration form is contained within the Owner's Notice package provided to the applicant. The Citizenship Declaration form identifies the required information and documents needed to verify citizenship. All family members regardless of age must declare their citizenship or immigration status. Parents complete the Citizenship Declaration and sign the Declaration on behalf of their child. Only those documents listed on the Citizenship Declaration shall be accepted. During an Interim or Annual Recertification, the citizenship/immigration status will be determined from family members not previously collected or whose documentation suggested that their status was likely to change. Management must obtain verification of the declaration by requiring presentation of the following:

- a. U.S. Citizens must provide an original or legal copy of a U.S. Birth Certificate or U.S. Passport
- b. Documentation for Non-citizens includes: Employment Authorization card, Temporary Resident card, or other appropriate documentation as provided by Section 214. Non-citizens must sign a Verification Consent form and submit documentation of their status or sign a declaration that they do not claim to have eligible status. The Verification Consent form permits Management to process the non-citizen family member through the SAVE Program ASVI database. A Verification Consent form must be completed for every non-citizen family member claiming eligible immigration status, including children. Non-citizens must provide verification of eligible immigration status. In the event the aforementioned documentation cannot be produced, the applicant will be referred to the local INS office to verify the applicant's immigration status.
- c. Non-citizens under the age of 62 claiming eligible status must provide:
  - (1) A signed declaration of eligible immigration status;

- (2) A signed Verification Consent form; and
  - (3) One of the DHS-approved documents as noted on the Citizenship Declaration.
- d. Non-citizen's age 62 and older must sign a Citizenship Declaration of eligible immigration status and provide a proof of age document.
  - e. Non-citizen's not claiming eligible immigration status may elect to sign a statement that they acknowledge their ineligibility for assistance.

Owners must verify the validity of documents provided by applicants or Residents. The personal computer method provides automated status verification when the information is contained in the Alien Status Verification Index (ASVI) database. If management is unable to obtain the results using the automated primary and secondary verification method (if message, "institute secondary verification" is received), management must attempt within 10 days of receiving the message, to obtain results using the secondary verification paper process using form G-845S. DHS will return a copy of DHS Form G-845S indicating the results.

- Management must conduct primary verification of eligible immigration status only for persons claiming eligible immigration status.
- Management must conduct primary verification through the SAVE ASVI database.
- Permission by the applicant for verification of information through the SAVE ASVI is provided via the Verification Consent Form.

Management must notify the family in writing as soon as possible if the secondary verification process returns a negative result. The family has 30 days from receipt of the notice to choose which option to follow. The family may appeal management's decision directly to the DHS. The family must send a copy of the appeal directly to management. The DHS should respond to the appeal within 30 days. If the DHS decision results in a positive determination of eligibility, management can provide the family with housing assistance. If the DHS decision results in a negative determination of eligibility, the family has 30 days to request a hearing with management.

**Delay of Assistance** - Management may not delay the family's assistance if the family submitted its immigration documentation in a timely manner but the DHS verification or appeals process has not been completed. If a unit is available and the applicant reaches the top of the wait list and **at least one member** of the family has been determined to be eligible, management must offer the family a unit. Management must provide assistance to the family member determined to be eligible and to those family members that submitted their immigration documents on time. If any family member did not provide the required immigration documentation, then the assistance for the family must be prorated. Management continues to provide assistance to those family members who submitted their immigration documentation in a timely manner until their immigration status has been verified.

The regulation at 24 CFR 5.216 requires that assistance applicants and tenants, excluding tenants age 62 and older as of January 31, 2010, whose initial determination of eligibility was begun prior to January 31, 2010, and those individuals who do not contend eligible immigration status, to disclose and provide verification of the complete and accurate SSN (Social Security Number) assigned to them. An exception status for these individuals is retained if the individual moves to a new assisted unit under any HUD assistant program or if there is a break in his or her participation in a HUD assisted program.

The SSN requirements do not apply to: Individuals who do not contend eligible immigration status; ie., mixed families. Management may not deny assistance to mixed families due to nondisclosure of a SSN by an individual who does not contend eligible immigration status.

#### **Timeframes for providing Social Security Numbers:**

**Applicants-** SSN for all non-exempt household members does not need to be disclosed at the time of the application, however, applicants must disclose and provide verification of a SSN for all non-exempt household members before they can be housed. If all non-exempt household members have not disclosed and/or provided verification of their SSN's at

the time a unit becomes available, the next eligible applicant must be offered the available unit. If the SSN has not been disclosed and/or provided for all non-exempt household members within 90 days from the date they are first offered an available unit the applicant will be determined ineligible and removed from the waiting list. During the 90 day period the applicant, may at their discretion, retain their position on the waiting list.

**Residents** - All residents, except those individuals 62 or older as of January 31, 2010 whose initial determination of eligibility was begun before January 31, 2010 (based on the effective date of the form HUD-50059), and those individuals who do not contend eligible immigration status, must disclose and provide verification of their SSN at the time of their next annual or interim recertification if:

- a. They have not disclosed an SSN;
- b. A Previously disclosed SSN was determined as invalid by HUD or the SSA;
- c. A new SSN has been issued.

If the resident fails to provide a valid and verified SSN, the household is subject to termination of tenancy in accordance with 24 CFR 5.218. The Head of household must bring SSN verification through one or more of the documents listed below during the next recertification interview for any household member who has not disclosed and provided verification of their SSN. The head of household will be notified when EIV pre-screening or SSA validation determines that a household member has provided an invalid SSN. If the resident, or any member of the resident's household is or has been assigned a new SSN, the resident must provide the SSN and documentation to verify the SSN to the O/A at the time of receipt of the new SSN or the next interim or annual recertification interview. When a household member is being added who is under the age of 6 who does not have an SSN, the resident has 90 days in which to provide such documentation., if the failure to provide documentation is due to circumstances that are outside the control of the resident. During this time period, the child is to be included as part of the household and will receive all of the benefits of the program in which the resident is involved, including the dependent deduction. TRACS ID will be assigned to the child until the documentation of the SSN is required to be provided. At the time of the disclosure of the SSN, an interim recertification will be processed changing the child's TRACS ID to the child's verified SSN.

**Any individual who has never been issued a SSN card or who has lost their SSN card may complete Form SS-5-Application for a Social Security Card to request an original or replacement SSN card, or change information on his/her SSA record. This form is available from any member of the management staff, or online at [www.ssa.gov](http://www.ssa.gov), or can be obtained at the local SSA office.**

**Verification** - The O/A (Owner or Agent) shall verify and document each disclosed SSA by:

- a. Obtaining the documentation listed below from each member of the applicant's or resident's household.
- b. Making a copy of the original documentation submitted, returning originals to the individual and maintaining a copy in the file;
- c. Recording the SSN on line 45 of the HUD-50059 and transmitting the data to TRACS in a timely manner.
- d. To ensure that the SSN transmitted to TRACS is valid, O/A's will use the Failed EIV pre-screening report and the Failed Verification Report in EIV in accordance with the instructions in the current HUD Housing Notice, 10-10.

**Acceptable Verification Documentation of Social Security Numbers Include** - Original document issued by a federal or state government agency which contains the name, SSN and other identifying information of the individual, such as:

- Social Security Card
- Driver's license with SSN
- Earnings statements on payroll stubs
- Bank statement
- Form 1099

- SSA Benefit award letter
- Retirement benefit letter
- Life insurance policy
- Court records

**Rejection of Documentation** - O/A must reject a document that is not the original document, is the original document but it has been altered, mutilated, or is not legible, or appears to be a forged document ( e.g., does not appear to be authentic). The O/A will explain to the applicant or resident the reason(s) why the document(s) are not acceptable and request the individual obtain acceptable documentation of the SSA and submit it to the O/A within a reasonable time frame.

**Once the individual's SSN has been verified the O/A may remove and destroy the copy of documentation referenced above by no later than the next regularly scheduled recertification of the family composition. Paper documentation may be destroyed by shredding; pulverizing; and/or burning. Electronic documentation may be destroyed by erasing, or permanently deleting the file.**

The retention in the resident file of the Household Summary Report from the EIV system which will report the status of the identity verification process provides verification of the SSN. Retaining this report in the resident file and destroying the copy of the SSN documentation will minimize the risk of exposing any individual's SSN.

#### **Penalties for the Resident's Non-disclosure of SSN:**

1. Termination of Tenancy- O/A will terminate the residency of a resident and a resident's household if the resident does not meet the SSN disclosure, documentation and verification requirements in the specified timeframe as the household is in non-compliance with its lease.
  - a. Includes all households who have not disclosed and verified the SSN for any child under the age of 6 who did not have a SSN when added to the household with the understanding that this SSN would be provided within 90 days after admission, or the 90-day extension period, if applicable.
  - b. There is no proration of assistance for those household members who are required to obtain an SSN but who failed to disclose and verify their SSN.
  - c. Termination does not apply to those households with individuals who do not contend eligible immigration status or who are 62 years of age or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010 (based on the effective date of the form HUD 50059), unless there are other members of the household who have not disclosed or provided verification of their SSN's.
2. The O/A may defer termination of residency and provide the resident with an additional 90 days past their next regular scheduled recertification of income and family composition to become compliant with the SSN disclosure and verification requirements.
  - a. The deferral will be at the O/A's discretion and must only be provided if failure to meet the SSN requirement was due to circumstances outside the control of the resident and there is likelihood that the resident will be able to disclose and provide verification of the needed SSN(s) by the deadline date.
  - b. After this 90 day deferral, if the resident has not disclosed and provided verification of the needed SSN(s), the O/A must pursue termination of residency.

Each \*adult household member must provide consents for verification of all sources of income or other information relative to occupancy in the community. If the applicant or Resident, or any \*adult member of the applicant or Resident's family does not sign and submit the consent form (1) management must deny assistance and admission to the applicant; or (2) management must terminate assistance to the resident.

Non-citizens under the age of 62 claiming eligible status must provide:



- (1) A signed declaration of eligible immigration status;
- (2) A signed Verification Consent form; and
- (3) One of the DHS-approved documents.

Non-citizens age 62 and older must sign a declaration of eligible immigration status and provide a proof of age document. Non-citizens not claiming eligible immigration status may elect to sign a statement that they acknowledge their ineligibility for assistance.

Owners must verify the validity of documents provided by applicants or Residents. The personal computer method provides automated status verification when the information is contained in the Alien Status Verification Index (ASVI) database. If management is unable to obtain the results using the automated primary and secondary verification method (if message, "institute secondary verification" is received), management must attempt within 10 days of receiving the message, to obtain results using the secondary verification process using form G-845S. DHS will return a copy of DHS Form G-845S indicating the results.

- a. Management must conduct primary verification of eligible immigration status only for persons claiming eligible immigration status.
- b. Management must conduct primary verification through the SAVE ASVI database.

Management must notify the family in writing as soon as possible if the secondary verification process returns a negative result. The family has 30 days from receipt of the notice to choose which option to follow. The family may appeal management's decision directly to the DHS. The family must send a copy of the appeal directly to management. The DHS should respond to the appeal within 30 days. If the DHS decision results in a positive determination of eligibility, management can provide the family with housing assistance. If the DHS decision results in a negative determination of eligibility, the family has 30 days to request a hearing with management.

An applicant must agree to pay the rent required by the program under which the applicant will receive assistance.

**Eligibility of a Mixed Family** - A family with one or more ineligible family members and one or more eligible family members may receive prorated assistance, continued assistance or a temporary deferral of termination of assistance.

Prorated Assistance: If a family is eligible for prorated assistance and is not receiving continued assistance, and if the termination of the family's assistance is not temporarily deferred, the amount of assistance the family receives is adjusted based on the number of family members who are eligible compared with the total number of family members. The prorated assistance is calculated by multiplying a family's full assistance by a fraction.

Section 8 = the number of eligible people in the family divided by the total number of persons in the family. Then this fraction is multiplied by the full assistance payment. The reduced assistance payment results in a revised tenant rent for the family.

Continued Assistance:

1. A mixed family who was receiving assistance on June 19, 1995 is entitled to continue receiving the same level of assistance if the following apply:
  - The family head, spouse, or co-head was a citizen or had eligible immigration status; and
  - The family did not include any members who did not have eligible immigration status, except for the head, spouse, parents of the head of household, parents of the spouse, or children of the head or spouse.
2. Eligibility for continued assistance must have been established prior to November 29, 1996.
3. If, after November 29, 1996, anyone is added to a family, including a head of household, spouse, parents of the head of household or spouse, or children of the head of household or spouse, the family is not eligible for continued assistance at the full level, but may receive prorated assistance.



Temporary Deferral of Termination of Assistance: Families that were receiving assistance on June 19, 1995 under one of the programs covered by the non-citizen rules are eligible for temporary deferral of termination of assistance, if the following applies:

1. Family has no eligible members; or
2. Mixed family qualifies for prorated assistance (and does not qualify for continued assistance) and chooses not to accept the partial assistance; or
3. The deferral allows the family time to find other suitable housing before HUD terminates assistance. During the deferral period the family continues to receive its current level of assistance.

Once the determination of non-citizen status of a household assisted prior to completion of the verification or appeal process, management will do as follows:

1. Provide full assistance to families with one or more established “eligible” household members until information establishing the immigration status of any remaining noncitizen family members has been received and verified;
2. Offer continued prorated assistance to a mixed household, or temporary deferral of termination of assistance if the family does not accept the offer of prorated assistance; or
3. Offer temporary deferral of termination of assistance to an ineligible family for six months. At the end of the deferral period the family must either pay market rent or vacate the unit.
4. A temporary deferral of termination of assistance period of six months may be extended for an additional six-month period, not to exceed 18 months. Before the end of each deferral period, management must determine whether affordable housing is available to the family and whether to extend the deferral of termination of assistance. To extend a deferral period management must determine that there is no affordable housing available and must inform the family of the determination at least 60 days before the current deferral period expires.
5. To terminate assistance management must determine that affordable housing is available, or that the maximum deferral period has been reached. If eligible for prorated assistance, the family may request and begin to receive prorated assistance at the end of the deferral period.

**NOTE:** If the family receiving assistance on June 19, 1995 includes a refugee under section 207 of the Immigration and Nationality Act, or an individual seeking asylum under section 208 of that Act, a deferral can be given to the family and there is no time limitation on the deferral period. The 18-month deferral limitation as described in item #3 above will not apply.

**Eligibility of Single Persons - Eligible single persons include those persons 18 years of age or older or a single person under 18 years of age who has been emancipated to act on his/her own behalf, including the ability to execute a contract or lease.**

**Eligibility of Student's As Head or Co-Head of Household -** An individual must be of legal contract age under state law and have established a household separate from parents or legal guardian for at least one year prior to application for occupancy or the individual must meet the U.S. Department of Education's definition of an independent student. The individual must not be claimed as a dependent by parents or legal guardian pursuant to IRS regulations. The individual must obtain certification of the amount of financial assistance that will be provided by parents, guardians or others signed by any individual providing the support.

As part of the fiscal year 2006 appropriations bill (Public Law 109-115) passed by Congress for the United States Department of Housing and Urban Development (“HUD”), a statutory change was made to Section 8 of the United States Housing Act of 1937, which established the Section 8 Housing Choice Voucher program, regarding the eligibility of students for such assistance. As required by that appropriations bill, HUD has issued a final regulation implementing that statutory change, which regulation will become effective as of January 30, 2006.

It also establishes that for purposes of determining the eligibility of a person to receive assistance under Section 8, any financial assistance **in excess of amounts received for tuition** that an individual receives either from private sources or from the higher education institution shall be considered income for that individual, except in the case of a person over

the age of 23 who has dependent children. Note that financial assistance under the HUD regulation does not include proceeds from student loans. (Assistance in excess of tuition is any assistance that is not paid to the school for classes. Aid for books, student activity fees or other expenses are included in income and should be listed on the 50059 as such. Students who are over the age of 23 with dependent children are exempt from counting financial aid as income).

- a. The rule applies to **part-time and full-time** students; and
- b. It does not apply to students who reside with their parent(s) in a Sect 8 assisted unit or who reside with parent(s) who are applying to receive Sect 8.
- c. It does not apply to a student with a disability who was receiving Section 8 assistance as of November 30, 2005

The HUD regulation changes 24 CFR Part 5's definition of "income" to include as income for purposes of Section 8 assistance the educational financial assistance discussed above - prior to the statutory change and this HUD final regulation, 24 CFR Part 5.609 provided that the **full** amount of student financial assistance paid directly to a student or the financial institution on behalf of that student was excluded from the definition of "income." The regulation also makes several clarifying changes to various sections found in 24 CFR to conform the definition of income under those sections to the revised definition set forth at 24 CFR Part 5.

As stated by HUD in issuing the new regulation, its purpose is to address several well-publicized incidents of college students who obtained federal housing assistance under Section 8 or who were living in federally subsidized housing without their educational financial assistance being counted towards their income for purposes of determining that student's eligibility for the housing choice vouchers or the other federal housing assistance.

The statutory change, and as also now reflected in 24 CFR Part 5.612, provides that no assistance under Section 8 may be furnished to any individual who:

- a. Is enrolled as a student at an institution of higher education,
- b. Is under 24 years old,
- c. Is not a veteran,
- d. Is not married,
- e. Does not have a dependent child,
- f. Is not a person with disabilities and was not receiving section 8 assistance as of November 30, 2005
- g. Is not living with his or her parents who are receiving section 8 assistance, and
- h. Is not individually eligible and has parents who are not income eligible to receive section 8 assistance.

Students: Applies to "in place" residents. If the in-place student household does not meet all of the student eligibility requirements during the recertification process, Section 8 subsidy will be terminated. A 30-day notice of the termination of subsidy must be provided. Management cannot evict. The resident should be moved to market rent.

**The following households are considered eligible:**

- 24 years or older (Obtain a birth certificate)
- Veteran (Obtain Military documentation)
- Has dependents
- Married (Obtain proof of marriage)
- **Parent's** income is not over the "Low" income level (for the area that the parent's live) and the student is income eligible.

1. Meet the U.S. Dept. of Education's definition of an "Independent Student" **U.S. Dept. of Education's Definition of an independent student:**

- a. Be at least 24 years old by December 31 of the award year for which aid is sought; or
  - b. Be an orphan or a ward of the court through the age of 18; or
  - c. Be a veteran of the U.S. Armed Forces; or
  - d. Have legal dependents other than a spouse (i.e. dependent children or elderly dependent parent.); or
  - e. Be a graduate or professional student; or
  - f. Be married.
2. Has maintained a household separate from parents for a full year **and** NOT claimed on their parent's tax returns.
- Students under the age of 24: Households comprised of a mixture of "ineligible students" and "eligible students" will not qualify for Section 8 assistance.
  - Students under the age of 24: The student's parents (not living in the unit) must be income eligible. The Low "L" income limit in the county where the PARENTS LIVE. (This rule does NOT apply and the parent's income is not relevant if the applicant has lived separate from the parents for a full year and the student cannot be claimed on the parent's income tax return.
  - Students under the age of 24: Financial aid in excess of tuition is **now** counted on the 50059 as income. (Students over the age of 23 with dependent children are exempt from counting Financial Aid as income.) The applicant **MUST** obtain certification of the amount of financial assistance that will be provided by parents, guardians or others signed by the individual providing the support.
  - Disabled students receiving Section 8 assistance after November 30, 2005, are not exempt from the Student restrictions and will be subject to the same requirements of other students.

Scenario of ELIGIBILITY when: not a veteran, not married, has no dependents, or is under 24:

- If the student's income is eligible and the parents of the student's income is not over the low income limit for the county in which parents live, then the student would be eligible under the new student rules.
  - If the student is not claimed on the parent's tax returns as a dependent and has maintained a household separate from their parents for a full year, then they would be eligible under the new student rules.
3. Disabled – Persons already receiving Section 8 assistance as of November 30, 2005 and are disabled (as defined by HUD).
- The revision to the law means that if a student with a disability was receiving Section 8 assistance as of November 30, 2005 they are exempt from the new student restrictions. Any person with a disability who is a student at an institution of higher education that is applying to receive Section 8 assistance after November 30, 2005 is not exempt from the new student restrictions.

*\* If this applies to the program in the unit that you are applying for.*

## APPLICATION AND WAIT LIST PROCESS:

The property shall be rented and occupancy maintained on a first come, first served basis. All persons wishing to be admitted to the community or placed on the Wait List must fully complete the application form provided by management. Management may also send out and receive applications by mail. Management will accommodate persons with disabilities who, as a result of their disability, cannot utilize the preferred application process.

1. Applicant completes & signs application
2. Applicant provides self certification of race and ethnicity (optional)
  - This information is optional; however, when an applicant chooses not to self certify, a notation that, “the applicant chose not to provide the race and ethnicity certification,” initialed by the applicant should be placed in the file. Management must not complete this form for the applicant.
3. If an applicant will be placed on the Wait List as opposed to being immediately offered a unit:
  - Management may use a pre-application. The pre-application must provide the minimum information needed to determine if the applicant should be placed on the Wait List. Minimum information would include income, employment, credit, prior Management, student, displacement and family composition.
  - If only a preliminary application has been completed, a full application should be completed when the applicant reaches, at the minimum, the fifth position on the Wait List, or sooner so that management has enough information to determine the applicant’s eligibility completely so as to not cause a delay in renting the unit. Management will transfer the time and date of the Pre-Application to the full Application.

The information provided must contain enough information for management to make an initial determination of the income eligibility (including student financial assistance) of the household, the size of unit desired or needed, and sufficient information to screen Applicant’s prior landlord history. Applicants submitting incomplete applications will not be considered for occupancy. Applicants must consent to management’s requirement to secure a credit and criminal background history and must provide sufficient information to enable management to secure such reports.

Potentially eligible Applicants who have met Resident selection criteria and for whom the right size unit is not available will be placed on the Wait List. The Applicant must contact the community office every six (6) months to remain on the Wait List. Applicants who fail to provide acceptable landlord references; credit history or who have a criminal background will be notified that they have been removed from the Wait List.

Applicants shall be offered housing (after meeting all selection criteria requirement), placed on the Wait List, or declined.

The initial application shall be date and time stamped when received complete, and the Community Manager shall maintain at the rental office a chronological list of all Applicants (categorized on a bedroom size requirement). When an appropriate unit becomes available, the Wait List will be reviewed to identify the Applicant whose name is chronologically at the top of the list. Existing residents requiring unit transfers because of accommodation will move ahead of chronological status Applicants.

Each Applicant will be required to evidence citizenship and comply with the Social Security Disclosure Regulations which means each Family member must supply his/her Social Security number and verification of the same. The Applicant shall be informed that a final decision on eligibility cannot be made until all verifications are complete and current income has been verified. Applicants, whose position on the Wait List enables application processing, will receive only one notices of housing availability, after an attempt to contact has been made by telephone. If the Applicant is unable to be contacted or does not respond within 5 days of the date of the notice, the applicant will be removed from the waitlist and notice will be sent informing them of such. The Applicant must then reapply for eligibility. Applicants will be moved to the bottom of the Wait List if an Applicant refuses to accept an available unit on the first contact, but who wishes to remain on the Wait List; however, they may need to re-qualify for eligibility if the information provided by the applicant is 120 days old or older.

Management may not delay the family's assistance if the family submitted its immigration documentation in a timely manner but the DHS verification or appeals process has not been completed. If a unit is available and the applicant reaches the top of the wait list and **at least one member** of the family has been determined to be eligible, management must offer the family a unit. Management must provide assistance to the family member determined to be eligible and to those family members that submitted their immigration documents on time. If any family members did not provide the required immigration documentation, then the assistance for the family must be prorated. Management continues to provide assistance to those family members who submitted their immigration documentation in a timely manner until their immigration status has been verified.

Once the Applicant reaches the fifth position on the Wait List, the Community Manager shall interview the Applicant; confirm and/or update all information provided on the application; update credit reports older than 90 days; obtain current information of income (EIV system & 3<sup>rd</sup> party Verification), expense and Family composition as applicable and necessary to certify eligibility, provide the Applicant with a copy of the HUD fact sheet, Race/Ethnicity Questionnaire for any additional members of the family and compute the Applicants share of the rent, advise the family that HUD will compare the information provided against what the federal, state or local agencies have on file for the family's income and household composition, require written certification of assets disposed of and advise of house rules and pet policies.

If an Applicant's income changes to an amount which is no longer eligible under the limitations of the assistance program and tax credit program by the time the Applicant reaches the top of the Wait List, written notice will be provided advising the Applicant that:

- They are not presently eligible for assistance under the Section 8 program and/or Tax Credit Program, or
- The Applicant could become eligible if the household income decreases, the number of household members change, the Income Limit changes, or HUD grants an exception to the Income Limits, and
- Asks whether or not the Applicant wishes to remain on the Wait List. If the applicant wishes to remain on the Wait List, management will advise them that they will be moved to the bottom of the Wait List.

If a household fails to move in on the agreed upon date, the application will be declined and the apartment will be offered to the next household on the Wait List.

Forms that the Applicant may expect to receive and/or complete during the Application process will include but will not be limited to:

Application for Residency  
Family Summary/Declaration Forms  
Is Fraud Worth It? Brochure  
Assets Disposed Of  
Income Verification  
Verification of Public Assistance  
Pet Policy/Pet Rules Agreement (if applicable)  
Race/Ethnicity Questionnaire  
Certification of Domestic Violence,  
Dating Violence, or Stalking

HUD Fact Sheet-How Your Rent is Determined  
9887/9887A – Consent & Release of Information forms  
Resident Rights and Responsibilities  
Child Support/Alimony Certification  
Assets Information  
Student Status Certification form  
Lead Based Paint Information, where applicable  
Grievance Procedure  
Rental Collection Policy

**Extremely Low Income Households:** Income Targeting - At any given time, it may be necessary to rent to ELI applicants prior to other applicants on the wait list. Extremely Low Income Households, defined as households with income not exceeding 30% of the area median income (AMI) established by HUD, shall receive preference over households on the Wait List with incomes exceeding 30% AMI. Management will select the first extremely low-income applicant on the Wait List which could mean "skipping over" some applicants with higher incomes, for the available unit, and then select the next eligible applicant currently at the top of the Wait List (regardless of income level) for the next available unit and will continue to alternate between the next extremely low-income applicant and the eligible applicant at the top of the Wait List until the 40% target is reached. Robert Smalls Apartments will continue to market units with efforts to reach the Extremely Low Income population. If there are no Extremely Low Income Households on the Wait List, other households will be housed in the order in which they have applied.

**Unit Availability for Individuals Needing the Features of an Accessible Unit:** Currently Congress Park I and II does not have designated accessible units. Households will hold priority for Disabled Persons (who otherwise qualify) in units designed for Disabled Persons. Households with Disabled members (who otherwise qualify) receive priority for

units designed for Disabled persons over other households who have no Disabled members. For units designed for accessibility to individuals with mobility, hearing or vision impairments, priority shall be given to Applicants requiring such units. This priority shall be granted upon proper notification by Applicant and by verification of the need by management.

**Family Size or Composition:** If a family is listed on the Wait List and their family size changes while awaiting an apartment, the family will be transferred to the appropriate unit size on the Wait List while maintaining their place on the Wait List by application date/time. It will be the responsibility of the family to notify management should a change in family size or composition occur.

*\* If this applies to the program in the unit that you are applying for.*

**Preferences** - Management will observe the following preferences at Robert Smalls Apartments.

**Statutory Preferences** - Applicants who have been displaced by government action or a presidentially declared disaster. Definition: A person or family in which each member or whose sole member is displaced by governmental action or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized under federal disaster relief laws. The Wait List will be noted in the Preference column with any applicant that has been displaced. On a continuing basis such preferred applicants shall be given preference over non-preferred applicants in their placement on a Wait List to be maintained by management.

Acceptable documentation of the displacement status includes copies of local government condemnation or displacement notices or government notices indicating an applicant is eligible for disaster relief benefits. If these documents are not available, a letter on appropriate letterhead from a government organization confirming the applicant has been displaced by government action or a presidentially declared disaster is acceptable. If written documentation cannot be obtained, verification of the displacement should be performed via telephone with the local government office or a disaster relief office and a notation should be made to the resident file of the oral verification.

## ***References***

### **Criminal and Credit History**

Management will require consent of all \*adult household members for verification of references and permission to seek credit and criminal background history.

### **Landlord References**

Landlord references will be required for up to five (5) years, including the present landlord. Applicants who have been previous homeowners must be able to demonstrate that they have made mortgage payments in a timely manner. The aforementioned include Live-in Aides and Police officers/security personnel.

### **Credit History**

Credit reports will be ordered for each Applicant using private credit services to check available databases storing credit history, including Live-in Aides and Police officers/security personnel. The credit report will be reviewed to determine the Applicant's history (over at least the past 5 years) of meeting financial obligations including payments for rent, utilities, loans, revolving credit cards, and other obligations. Applicant's credit history must be acceptable to management before they will be approved to occupy a unit. The credit report will be reviewed to:

- Confirm current address;
- Confirm credit sources included on the application;
- Confirm current and past employment listed on the application; and,
- To determine whether the Applicant has an acceptable credit history.

Applicants, whose credit history is unacceptable, will be declined and removed from the Wait List. An unacceptable credit history is one that reflects consistent, past due payments of more than 90 days; a history of repeated insufficient fund checks; derogatory credit (repossession, foreclosures, judgments, collections, charge offs, liens, bankruptcy not



yet discharged, etc); delinquent or charge off debt that is owed to other apartment communities or housing authorities; or unpaid utility company collections which would prohibit applicant from obtaining services.

Applicants, who have had no previous rental or homeownership history, must provide references from present and former employers, teachers or clergy. Further, such Applicants must agree to an inspection of their apartment 30 days after initial move in and they may continue (if the need substantiates itself) until management deems that the Applicant is maintaining the apartment in a clean, safe and sanitary condition.

The lack of credit history or past due payments or derogatory credit relating to medical expense or student loans will not be considered as grounds for declining an Applicant. Consideration will be granted when current credit history demonstrates a pattern of improvement; history of rent payment overshadows other debt issues or Applicant can demonstrate acceptable reasons for credit history. Applicants may wish to provide an explanation that evidences efforts to correct credit deficiencies through payment plans or other work out solutions. If such explanation is acceptable to management, further screening may be conducted and written confirmation of payment plans may be required from the creditor(s). In the event of decline based upon credit, the Applicant has 14 days to provide an explanation and request further consideration. Management will only discuss the findings on a credit report if one has been obtained by the applicant from the information provided on the application status letter. It is the Applicant's responsibility to contact the credit-reporting agency to resolve any items that have been incorrectly reported.

Credit activity reports will also be generated on all \*adult members who have been added to the household after initial move-in.

### **Criminal Activity Reports:**

A criminal activity report will be ordered for each Applicant and \*adult household member(s) including Live-in Aides and Police officers/security personnel, prior to move in, using private screening services to check available databases storing criminal and sex offender history. The Applicant or other members of the family with a history that includes felonious crimes, drug related crimes, violent crimes or sexual crimes would be declined and removed from the Wait List. Reports will be obtained from local and/or state records. Consideration may be granted to Applicants with past nonviolent criminal records occurring five or more years in the past with no further criminal record. If the Applicant has resided in a state other than South Carolina and has a past felony conviction, a report will be required from that state or federal organization. Applicants will be required to certify that they or members of their household are not Registered Sex Offenders. Registered Sex Offenders will not be admitted to the apartment community. Criminal activity reports will be generated on all \*adult members who have been added to the household after initial move-in.

At time of Application all Applicants age 18 and older will be required to complete an Application. By completing the Application, the Applicant certifies that they are not subject to a lifetime sex offender registration requirement or that they or members of their household have not been convicted of a crime. Any household member subject to a lifetime sex offender registration requirement will not be permitted to reside at the apartment community. If the screening reveals that the applicant or a member of the applicant's household is subject to a lifetime sex offender registration requirement, Management will not permit the family or covered person to move in to the property.

If at time of application if it is revealed that the applicant or other adult member of the household has falsified their information relative to criminal activity, the application will be denied for that household or household member.

If it is disclosed on the application that a criminal act (felony or misdemeanor, plea's of lesser charge, etc) by them or a family member has occurred, notification will be sent to the household. Sufficient evidence of acquittal, approved supervised treatment or rehabilitation program, parole officer report, etc, will be required for consideration of occupancy. If no such evidence is produced or if Management determines that the criminal activity warrants denial of the family or family member, Management will begin provide notification to the household of the denial.

If Management determines that admittance into the community is acceptable and the offending person continues to engage in criminal activity, regardless of whether the covered person has been arrested, or convicted for such activity and without satisfying a criminal standard of proof of the activity, that Management determines threatens the health, safety, or right to peaceful enjoyment of the premises by other residents will be removed from the property in accordance with the lease. In the same regard, if Management determines or has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents will be denied admittance into the community. Any decision based on "reasonable belief" or other "determination" by Management, the reason for the belief or determination will be documented for the resident file.

If it is discovered during the screening that any household member was evicted from Federally-assisted housing for drug-related criminal activity for five (5) years from the date of eviction, sufficient evidence of continued attendance or completion of a supervised drug treatment program, etc; or, if circumstances leading to the eviction no longer exist, Management will consider those extenuating circumstances so long as there have been no evidence of continued offenses and Management determines that the family member will not interfere with the health, safety or right to peaceful enjoyment of the property.

Police officers and other security or management personnel that apply to rent subsidized units are subject to the same screening criteria as other applicants.

**Circumstances Relevant to a Particular Case -** Management will consider all the circumstances relevant to a particular household's case such as: 1) the seriousness of the offense; 2) the degree of participation in the offending activity by the household member; 3) the effect denying residency would have on non-offending household members; 4) the extent to which the applicant household has taken responsibility and takes all reasonable steps to prevent or mitigate the offending action; and 5) the effect of the offending action on the program's integrity.

In the event of decline based upon a derogatory criminal report, the Applicant will be notified of the proposed denial of their or other family member's admission for occupancy. The notification will include the criminal activity report that the decision was based upon, and information advising the Applicant that they have 14 days to provide an explanation and request further consideration (obtain agency documentation (court, police, etc)).

## Resident Selection Guidelines (Eligibility Requirements)

- The following factors shall be considered in screening an Applicant for occupancy:
  1. The family's annual income must not exceed the posted program income limits (low, very low, and extremely low-income residents).
  2. At the time of application, the Existing Tenant Search Report from HUD's EIV (Enterprise Income Verification) System will be generated as part of the resident screening process. Robert Smalls Apartments will also run all other EIV reports as required throughout residency.
  3. At the time of admission, the Applicant may not be receiving Section 8 assistance on another housing unit
  4. Double Subsidy
    - a. Residents must not benefit from Housing Choice Voucher assistance in a unit already assisted through project-based Section 8. The applicant must move out of the current property and/or forfeit any voucher before HUD assistance on this property will begin.
    - b. This prohibition does not prevent a person who is currently receiving assistance from applying for an assisted unit in another property. The assisted residency in the unit being vacated must end the day before the subsidy begins in the new unit.
    - c. All Residents will within 90 days of admission, and at annual and interim recertification's have an income verification done through the Enterprise Income Verification system provided by HUD. Should a discrepancy arise the resident will cooperate in resolving the discrepancy. Failure to do so may result in termination of subsidy or termination of lease. Residents who deliberately understate their income will be required to execute and comply with a repayment agreement.
  5. Section 214 review of non-citizens - Head of Household must complete the Family Summary Sheet. All household members must complete the Department of Homeland Services, "Citizen Declaration" form and all forms associated with the citizenship requirements truthfully and completely. Applicants must submit documentation substantiating citizenship or eligible immigrations status for any non-citizen (U.S. Citizens must provide an original or legal copy of a U.S. Birth Certificate or U.S. Passport; Non-citizens must sign a Verification Consent form or sign a declaration that they do not claim to have eligible status. Non-citizens must provide verification of eligible immigration status such as I-551, I-94, I-688, I-688B, etc) A Non-citizen family with one or more ineligible family members and one or more eligible family members may receive prorated assistance, continued assistance or a temporary deferral of termination of assistance.
  6. All members of Household must disclose their social security number and provide verification of their Social Security number. If no social security number has been assigned to a particular family member, the applicant must sign a certification stating that no social security number has been assigned.
  7. Outstanding balances due to utility companies, housing authorities or prior landlords must be paid in full prior to residency. Applicants must provide evidence that they are current with utility payments and that the Head of Household will be able to place utilities in their name (copy of last two utility bills).
  8. Household demonstrated ability to meet financial obligations and to pay rent on time.
  9. Complete the Application and all Verification forms. Forms not complete and signed and dated will be rejected. All questions must be answered even if the answer is "zero" or "non-applicable."
  10. If a household on the Wait List who did not qualify for a Priority (reasonable accommodation or displaced) when they first applied should experience a change in circumstances that qualifies them for a priority, it will be the household's responsibility to contact the site so that their change in status may be verified to reflect the priority. To the extent the verification determines the household does qualify for a priority, they will be moved up on the Wait List in accordance with the priority and their date and time of application.

11. All adults in each applicant family must sign an Authorization for Release of Information (forms HUD 9887/9887A) prior to receiving assistance and also annually thereafter.
12. Management will collect a security deposit at the time of the initial lease execution.
  - a. The resident is expected to pay the security deposit from his/her own resources and/or other public or private sources.
  - b. An applicant may be rejected if he/she does not have sufficient funds to pay the deposit.
  - c. Management may collect the security deposit on an installment basis.
  - d. The security deposit is refundable pursuant to the Lease provisions.
  - e.
13. Satisfactory references from former landlords are required. Landlord history from at least two (2) landlords is preferred. Having no prior landlord reference is not a reason for rejection.
14. No history of disturbing neighbors or destroying property is received from prior Landlord's and/or court records.
15. Applicants credit history over the last five (5) years does not reveal a Poor credit rating. (However, lack of a credit history is not sufficient cause to reject an applicant.)
16. Applicants' criminal activity report does not reveal a record of felonious crimes, drug related crimes, or violent crimes occurring in the last five (5) years with no further criminal record. Registered Sex Offenders will not be admitted to the apartment community under any Program Type.
17. Ability to maintain (or with assistance would have the ability to maintain) the housing in a decent, safe and sanitary condition based on living or housekeeping habits and whether such habits adversely affect the health, safety or welfare of the household and other residents in the community.
18. Head of Household must complete the Family Summary Sheet. All household members must complete the Department of Homeland Services, "Citizen Declaration" form and all forms associated with the citizenship requirements truthfully and completely. Applicants must submit documentation substantiating citizenship or eligible immigrations status for any non-citizen (include but not limited to: copies of birth certificate for each member, or I-551, I-94, I-688, I-688B, etc)
19. Family size and composition must be compatible for units available at the property. In general, the maximum occupancy policy of, "two persons per bedroom" has been adopted at the community. The minimum and maximum occupancy guidelines are as follows:

| <u>Bedroom size</u> | <u>Family size (Minimum)</u> | <u>Family size (Max)</u> |
|---------------------|------------------------------|--------------------------|
| 0 Efficiency        | 1 Person                     | 2 Persons                |
| 1 Bedroom           | 1 Person                     | 2 Persons                |
| 2 Bedroom           | 2 People                     | 4 People                 |
| 3 Bedroom           | 3 People                     | 6 People                 |
| 4 Bedroom           | 4 People                     | 8 People                 |
| 5 Bedroom           | 5 People                     | 10 People                |

- a. A maximum of "two persons per bedroom" has been applied at the community. Family composition (age differences between children and relationships of adults) and a verifiable medical reason for an alternative amount of people per bedroom will be taken into consideration.
- b. Single persons do not qualify for 2- bedroom units unless:
  - 1) A person with a disability who needs the larger unit as a reasonable accommodation; or,

- 2) A displaced person when no appropriate size unit is available but who agrees in writing to transfer to another unit when one becomes available; or
- 3) An elderly person who has a verifiable need for a larger unit; or,
- 4) A remaining family member when no appropriate sized unit is available.

The need of a Live in Aide should be considered in the family size of the unit. (If a relative is considered to be a Live-in Aide, they must meet the three (3) definitions of a Live-in Aide and must sign a Live-in Aide Questionnaire/Agreement. The 3 definitions include the following: A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and (1) who is determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; (3) and would not be living in the unit except to provide the necessary supportive services.

“Temporarily absent” household members and “permanently confined” household members must be taken into consideration for family size/composition. (While it is the option of the household to include a “permanently confined” member in the family size of the unit, the “permanently confined” member cannot be named as Head of Household, Spouse or Co-Head. If the family chooses to include this member, all income and allowable deductions related to the medical care of the permanently confined individual are counted.)

20. Applicants whose information contained a court record of any landlord and tenant case that were filed and ended in eviction, or judgment for the landlord would be ineligible.
21. Applicants who have been displaced by government action or a presidential declared disaster would receive preference for housing, if they otherwise qualify. Verification of displacement must be supplied at the time of application.
22. All applicants and members of an applicant’s household, 18 years and older, must answer inquires about their criminal history during the past five (5) years and consent to a criminal background check covering this time period. This consent will also allow a search of records relating to lifetime registration under a state sex offender registration program. Applicants, or household members, who are subject to a lifetime registration requirement under a state sex offender registration program, are not eligible for residency. To assist in accessing relevant records, all adult members of the household must provide all addresses from other states in which they have resided.
23. Applicants or any member of the household convicted of the illegal manufacture or distribution of controlled substance are not eligible for residency. Applicants or any member of the household who are current illegal abusers or addicts of a controlled substance are not eligible for residency. Similarly, applicants or any member of the household who have been evicted from federally assisted housing for drug related criminal activity within the past five (5) years are not eligible for residency. Relevant inquires about controlled substance convictions/evictions/abuse will be made of all applicants.

Note that if an applicant is in a treatment program for controlled substance abuse and also has a history of employment, then prior substance abuse will not by itself prevent the applicant from being considered for residency.

Management will follow applicable federal and state law concerning what constitutes a conviction for “illegal manufacture and distribution of a controlled substance,” an eviction for “drug-related criminal activity” as well as who is regarded as a “current illegal abuser or addict of a controlled substance.” Applicants, or household members, with a felony conviction during that period are not eligible for residency. Applicants, or household members, with a misdemeanor conviction during that time period are not eligible if the eviction was for violent or harmful conduct or conduct that involved a threat of violence or harm against others (for example, stalking, abuse of a minor or criminal assault). Misdemeanor convictions that would not be disqualifying would include traffic offenses.

24. All applicants and members of applicant’s household, 18 years and older, must certify that they do not abuse, or engage in a pattern of abuse, of alcohol, or engage in illegal use, or a pattern of illegal use, of a drug in such a way that it would interfere with the health, safety or peaceful enjoyment of the premises by other residents.

25. Applicants, or household members, who abuse or engage in a pattern of abuse of alcohol or who engage in illegal use, or a pattern of illegal use, of a drug in such a way that it interferes with the health, safety or peaceful enjoyment of the premises by other residents are not eligible for residency.
26. Preference will be provided to existing residents who would be eligible for a transfer within the community for any of the following reasons:
- Change in Family Size
  - Change in Family Composition
  - Verified Medical Accommodation
  - Management approved reasonable accommodation
27. Students – Provide verification of student status for all individuals listed on the application as students.
- (a.) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who:
- is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002):
  - is under 24 years of age;
  - is not a veteran;
  - is unmarried;
  - does not have a dependent child; and
  - is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437F).
  - is not a person with disabilities and was not receiving Section 8 assistance as of November 30, 2005. If you are a student with disabilities receiving Section 8 as of November 30, 2005, you are exempt from the Section 8 restriction.
- (b.) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

The rule applies to **part-time and full-time** students; and It does not apply to students who reside with their parent(s) in a Sect 8 assisted unit or who reside with parent(s) who are applying to receive Sect 8.

It does not apply to a student with a disability who was receiving Section 8 assistance as of November 30, 2005

**Being eligible, however, is not an entitlement to housing.** In addition, every applicant must meet the Resident Selection Guidelines. The Resident Selection Guidelines are used to demonstrate the applicant's suitability as a resident using verified information on past behavior, to document the applicant's ability, either alone or with assistance to pay the rent, and to comply with essential lease provisions and any other rules and regulations governing residency.

#### **Applicant May Be Rejected If:**

- Failure to meet one or more of the screening criteria.
- Application is incomplete, or is found to contain false information.
- Applicant does not have sufficient funds to pay the security deposit. (Deposit may be collected on an installment basis.)



- Information required by the application and income verification process is not provided.
- Failure to respond to written requests for information.
- An unfavorable rental reference is obtained from present or past landlords (non-compliance with rental agreement at present/prior residences, failure to recertify as required, violations of landlord rules and regulations, unauthorized person/person's in unit/previous evictions for lease violations).
- Credit history indicates a failure to meet financial obligations (excluding medical & student loans). In the event of decline based upon credit, the Applicant has 14 days to provide an explanation and request further consideration. Management will request that the applicant use the contact information given to obtain a 'free' copy of the credit report. The credit report cannot be discussed without the applicant having it in their possession at the time of the meeting. It is the Applicant's responsibility to contact the credit-reporting agency to resolve any items that have been incorrectly reported.
- Unpaid balances owed to present or prior landlords or to a utility provider for present or prior residences will not be considered until account is paid in full and assurance is obtained that the family will be able to pay and maintain utilities in the name of the head of household.
- Family size is too large for available units, and serious overcrowding would result in providing a smaller unit.
- History of disturbing the quiet enjoyment of others or is dangerous to neighbors.
- A risk of intentional damage or destruction to the unit or surrounding premises by the Applicant or those under the Applicant's control.
- History of violence and harassment of others.
- History of violations of the terms of previous rental agreements such as destruction of a unit or failure to maintain a unit in a decent, safe, and sanitary condition.
- Applicant or a household member has engaged in or threatened abusive or violent behavior towards any staff member of management or another resident.
- Any household member has been evicted from a federally assisted site for drug related criminal activity.
- Any household member is currently engaging in illegal drug use including any conviction or adjudication other than acquittal for the sale, distribution or manufacture of any controlled or illegal substance.
- Any conviction or adjudication other than acquittal involving illegal use or possession of any controlled or illegal substance.
- There is reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.
- There is reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.
- Any household member that is subject to a lifetime registration requirement under a state sex offender registration program; or, if the applicant or any household member has a conviction or adjudication other than acquittal, for any sexual offense, the application will be rejected.
- Any conviction or adjudication other than acquittal, which involved bodily harm to a child.
- A household member is currently engaging in, or has engaged in drug related criminal activity, violent criminal activity or other criminal activity that would threaten the health, safety or right to peaceful enjoyment of the premises by other residents, or the sites employees, contractors or agents.

- Does not meet Student Eligibility Requirements if applying for such.
- Applicants, who have had no previous rental or homeownership history, must provide references from present and former employers, teachers or clergy. Responses that are received from references must show acceptable history and/or traits, otherwise the application will be rejected.
- Applicants, who have had no previous rental or homeownership history, must provide references from present and former employers, teachers or clergy. Responses that are received from references must show acceptable history and/or traits, otherwise the application will be rejected.
- Through the EIV process, HUD provides Management with information relative to an applicant's current status as a Section 8 housing assistance recipient. The applicant must move out of the current property they are living in if receiving Section 8, and/or forfeit any voucher, before HUD assistance on this property can begin.

**Notification of Applicant Denial** - An Application Status Notice will be provided in writing, via first class mail, and will include the specific reason for the Denial and the applicant's right to respond to management in writing or request a meeting within 14 days to dispute the Denial. The Wait List will be documented with the date that the Denial Notice was sent and a copy of the Denial letter maintained in the applicant file. Persons with disabilities may request reasonable accommodation in order to participate in the informal hearing.

**Management Meetings with Applicants to Discuss Application Status Notices** - Any meeting with the applicant to discuss the applicant's Denial must be conducted by a member of the management staff who was not involved in the initial decision to deny admission or assistance. Within 5 business days of the meeting, management must advise the applicant in writing of the final decision on eligibility. The Wait List will be documented with the final determination. A copy of the Final Determination Letter will be maintained in the Applicant file.

**The Wait List** - In order to maintain a balanced application pool, Management may at its discretion restrict application acceptance, suspend application taking, and close the Wait List. Management will also update the Wait List by removing those names in accordance with items 1–6 below:

Reasons for Removing Names from The Wait List:

- The applicant no longer meets the eligibility requirement for the property or program:
- The applicant fails to respond to a written notice for an eligibility interview:
- The applicant is offered and rejects two offers of housing in the property
- Mail sent to the applicant's address is returned as undeliverable; or
- The unit that is needed (using family size as the basis) changes and no appropriate size unit exist at the property.
- Applicant fails to contact the property at the prescribed (6-month) intervals of their interest to remain on the Wait List. Written communication will be provided to the applicant before removing their name from the Wait List and the Wait List will be documented.

When removing a name from the Wait List the following guidelines should be followed:

- Determine those families that have not called the office to remain on the Wait List (determined by the notes placed on the Wait List of those families that have called to remain on the Wait List);
- Send a Wait List Periodic Assessment letter to those families who have not made contact with the site within the 6 month period;
- Wait the allotted time period named on the Wait List Periodic Assessment letter (14 days);
- On the 15<sup>th</sup> day, if there is no response the Wait List will be documented as such. If the family responds in the negative, the Wait List will be documented as such along with the date the response was received. If an affirmative response was received, note the Wait List of their desire to remain on the Wait List along with the date the response was received;
- If a negative response was received from the family or the Wait List Periodic Assessment letter is returned due to incorrect address; an Application Status Notice will be sent to the family at the last known address and the Wait List noted with the date the Application Status Notice was mailed. The Applicant then has 5 days to respond to the Application Status Letter. If no response is received, the Wait List should be documented that there was no response to the Application Status Letter and the date of no response (the 6<sup>th</sup> day from the date the letter was sent to the family as noted on the Application Status letter).

The Wait List will be kept current by purging the list every 6 months. The Wait List may be closed for one or more unit sizes when the average wait is ONE year or more.

If the wait list is closed, notification will be published 30 days in advance of such closing in the local media classified section and internet sources as applicable, as well as posted on the Rental Office door, on the Rental Office bulletin board or wherever the community manger deems the path that Applicants travel. The ad must identify the exact date when the Wait List will close and that the Wait List is closed due to a wait of at least one year (identify every/all bedroom size that will be closed) and that applications will not be accepted nor will the property maintain a list of individuals who wish to be notified when the Wait List opens. The ad must also identify that when the Wait List is opened, an ad will appear 30 days prior to reopening the Wait List. The ad must state that during the period when the Wait List is closed, the Property will not accept additional applications nor will they maintain a list of individuals who wish to be notified when the Wait List reopens. . It is good practice to open and close the Wait List on the first of the month so as to not cause confusion to either party (site or applicants). When closing the Wait List on the first of the month, prepare the ad one week in advance of placing the ad and place the ad appropriately advising the newspaper contact that the ad must appear on the first day of the month. The ad should run at least two days and check to see if any specials the newspaper may be offering that may include a week or on their high volume days. The ad should

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include as the header the name of the community, the full address, city, state and zip code. Following the address of the community, the next header must state “Notification – Wait List Closure”. The ad must contain the Equal Housing Opportunity emblem or abbreviation of EHO at the bottom of the ad.

Likewise, when the Wait List reopens, notification will appear 30 days in advance of such reopening in the applicable classified ads stating the exact date when the Wait List will open and what bedroom size unit(s) will be opened. The ad must also state that applications will not be accepted until the date that you specify in the ad for the reopening of the Wait List. It is good practice to open and close the Wait List on the first of the month so as to not cause confusion to either party. When opening the Wait List on the first of the month, prepare the ad one week in advance of placing the ad and place the ad appropriately advising the newspaper contact that the ad must appear on the first day of the month. The ad should run at least two days and check to see if any specials the newspaper may be offering that may include a week or more. The ad should include as the header the name of the community, the full address, city, state and zip code. Following the address of the community, the next header must state “Notification – Wait List Opening”. The ad must contain the Equal Housing Opportunity emblem or abbreviation of EHO at the bottom of the ad.

In such instances where the Wait List is closed and an Applicant that is currently on the Wait List rejects a unit but wishes to remain on the Wait List, the Applicant will be moved to the bottom of the Wait List. The Applicant may not reject a unit more than two times.

In the event that an applicant was erroneously removed from the wait list and management determines an error was made in removing the applicant, the applicant will be reinstated at the original place on the wait list and a notice provided via first class U.S. Mail (copy of letter maintained in the applicant file) of the error and reinstatement on the Wait List.

If a household on the Wait List who did not qualify for a Priority when they first applied should experience a change in circumstances that qualifies them for a priority, it will be the household’s responsibility to contact the site so that their change in status may be verified to reflect the priority. To the extent the verification determines the household does now qualify for a priority, they will be moved up on the Wait List in accordance with the priority and their date and time of application.

Management must not skip over a family that has reached the top of the Wait List and has indicated a need for certain unit accommodation because of a disability. Separate Wait Lists are not used for persons with disabilities; therefore, they must be placed on the general Wait List and given the option of the next available unit if they come to the top of the list. The family must be given the choice to decide whether a unit meets the needs of the family (based on size, location or facilities). The family will have two opportunities to reject a unit before their name is removed from the Wait List.

If an applicant is removed from the Wait List, the Wait List will be documented with the time, date and explanation for removal from the Wait List. The application, initial Denial notice, applicant reply, copy of management’s final response, and all documentation supporting the reason for removal from the list will be maintained in the applicant file at the site for a period of (3) three years.

**Offering an Apartment** - When an apartment becomes available, either a telephone call or a written notice will be sent via U.S. Mail to the applicant notifying them of the availability. A member of the site staff may also contact the applicant via telephone in an effort to speed the process of occupancy for the applicant. If the applicant cannot be contacted via telephone within five (5) business days or if there is no written response received within ten (10) business days of the date of the letter of availability or if the mail was returned for incorrect address, the offer will be rescinded and the applicant will be removed from the Wait List and the next qualified applicant will be offered the apartment by the same method as aforementioned.

Should the Applicant decline the apartment but wish to remain on the Wait List, their name will be removed from the top of the Wait List and placed at the bottom of the Wait List. An applicant that is offered and rejects two offers of housing at the property will be removed from the Wait List.

If a household fails to move in on the agreed upon date, the application will be declined and the apartment will be offered to the next household on the Wait List. Management may make exceptions to the procedure described herein to take into account circumstances beyond the applicant’s control (i.e. medical emergencies, extreme weather conditions, etc). Should a special circumstance occur, the Applicant file would be documented.

**Security Deposit** - Management will collect a security deposit at the time of the initial lease execution.



1. The resident is expected to pay the security deposit from his/her own resources and/or other public or private sources.
2. An applicant may be rejected if he/she does not have sufficient funds to pay the deposit.
3. Management may collect the security deposit on an installment basis.
4. The security deposit is refundable:
  - a. In order to receive a refund, a resident must provide management with a forwarding address or arrange to pick up the refund.
  - b. Management may use the resident's security deposit as reimbursement for unpaid rent or other amounts the resident owes under the lease. (Only excessive damage to the unit caused by the resident's abuse or negligence will be deducted from the security deposit).
  - c. The security deposit will be refunded within the time frame of Federal and State regulations (30 days after the day of move out) management must either:
 

Send a full refund of the security deposit; or

Mail or personally deliver to the resident an itemized statement that lists the amounts of any deductions from the security deposit and the reasons for the deductions, together with a refund of any amounts not deducted. Copies of receipts for charges must also be included.
  - d. If the full refund is not to be refunded, must provide the resident with an itemized list of unpaid rent, damages to the unit and an estimated cost of repairs. For this reason, the resident is encouraged to participate in the Move-out Inspection.
  - e. Management will notify the resident of the date of the move-out inspection.
5. Should a resident move to another apartment, the security deposit would transfer to the new unit.
6. The security deposit will be placed in an interest bearing account. Should the account be a fluctuating account, the resident will be paid at time of move out, the percentage rate at time of move out. (Example: resident moves in, interest is .25%, and at time of move out is 1.0%, resident will be paid at 1.0%).
7. If a disagreement occurs with regard to the reimbursement of the security deposit, the resident has the right to present objections to management in an informal meeting. The Resident has the option as a person with disabilities to request a reasonable accommodation to participate in the informal meeting.

**Overcrowded or Under-Utilized Units** - Units, which are smaller or larger than needed by the Applicant, may be assigned if doing so will not cause serious overcrowding and no units of appropriate size are available as described below. In such cases, the Family must agree in writing to move to the correct sized unit, at its own expense, when one becomes available. After move in, if a unit becomes overcrowded or under used because of changes in household composition, the management agent will require the Family to move to an appropriate sized unit when one becomes available or pay the HUD approved market rent if they remain in the same unit. The following should be applied:

**Assigning a Smaller Unit Than Required** – When requested by the family and if the following apply:

- The family is eligible based upon the number of family members and will not cause serious overcrowding:
- Assigning the smaller unit results in a lower rent payment (Section 236 or BMIR units)
- The assignment will not conflict with local codes.

**Assigning a Larger Unit Than Required** - When one of the following exists:

1. No eligible family in need of the larger unit is available to move in within 60 days, the property has the proper size unit for the family but it is not currently available, and the family agrees in writing to move at its own expense when a proper size unit becomes available. (A single person cannot move into a property even temporarily if there are no one bedroom units to transfer them to; unless, they have a verifiable reason for a larger unit, (i.e. reasonable accommodation)). The Community Manager should contact their supervisor (RPM) prior to this decision.
2. A family needs a larger unit as a reasonable accommodation for a family member who is a person with a disability.

**Single Person** – a single person must not be permitted to occupy a unit with two or more bedrooms, except under the following conditions:

A person with a disability who has a verifiable need of the larger unit as a reasonable accommodation

An elderly person who has a verifiable need for a larger unit

A remaining family member of a resident family when no appropriately sized unit is available.  
(A single person cannot move into a property even temporarily if there are no one bedroom units to transfer them to; unless, they have a verifiable reason for a larger unit, (i.e. reasonable accommodation))

**Unit Transfers** - Transfer requirements: When management determines that a transfer is required, the Lease states that the resident (1) may remain in the unit and pay the HUD approved market rent; or (2) move within 30 days after management notifies the family that a unit of the required size is available within the property. The resident will be obligated for the moving costs; however, if a resident is transferred as a “reasonable” accommodation to a household member’s disability, then the owner **\*\*must\*\*** pay the costs associated with the transfer, **\*\*unless** doing so would be an undue financial and administrative burden**\*\***. Resident transfer will reflect a code of “UT” on the 50059.

**Unit Transfer Due to Medical/Accessible Reason Certified by a Doctor (Accommodation):** Requests for accommodation from existing residents requiring unit transfers will take priority over all Wait List Applicants. Accommodation results when a third-party-verified handicap or disability requires a change or repairs that make it easier for the existing resident to reside in the community. For example: if a resident with a physical disability might need a transfer to a unit on the ground floor, or a larger unit to accommodate a live-in aide if a larger unit is available at the site. If there are no families in residence requiring an accessible unit, then the first family on the Wait List requiring such need will be moved into the unit.

Should a member of a household who required the special feature of an accessible unit no longer reside in the unit, the family will be transferred to an appropriate unit without accessibility features.

**Transfers Due to Family Size/Family Composition:** After move in, if a unit becomes overcrowded or under used because of changes in family size or household composition, the management agent will require the Family to move to an appropriate sized unit within 30 days of management notification of an available unit or pay the HUD approved market rent if they remain in the same unit. If there are no units of the appropriate size at the property, the resident must be notified in writing. When a household transfers to a new apartment, the security deposit will be transferred to the new unit. Occupancy guidelines on the eligibility requirements must be followed. The number of family members is important. Example: If a family of 4 (1 adult and 3 children) are currently on the waiting list, and a family of 5 (2 adults and 3 children) are also on the waiting list, a family of 5 would be considered first as opposed to the family of 4 due to the eligibility requirement minimum and maximum guidelines. In all other cases, we will transfer in the order in which the transfer was requested and approved.

**Denial of Assistance to Non-Citizens:** Denial of assistance to an applicant will commence upon occurrence of any of the following:

1. The applicant fails to submit evidence of citizenship (i.e. the declaration) and eligible immigration status by the date specified.



2. The applicant submits evidence of citizenship and eligible immigration status on a timely basis, but DHS primary and secondary documentation does not verify eligible immigration status of a family member; and,
  - The family does not pursue a DHS appeal or informal hearing rights, or
  - The family pursues a DHS appeal and informal hearing, but the final decision is against the family member.

**Prohibition of Assistance to Non-Citizen Students:** Non-citizen students and their noncitizen families may not receive assistance. Noncitizen students are not eligible for continuation of assistance, prorated assistance, or temporary deferral of termination of assistance.

1. A non-citizen student is defined as an individual who is as follows:
  - a. A resident of another country to which the individual intends to return;
  - b. A bona fide student pursuing a course of study in the United States; and
  - c. A person admitted to the United States solely for the purpose of pursuing a course of study as indicated on an F-1 or M-1 student visa.
2. This prohibition applies to the noncitizen student's non-citizen spouse and children. However, spouses and children who are citizens may receive assistance. An example would be a Family that would include a non-citizen student married to a U.S. citizen, is a mixed family.

#### **Record Keeping:**

1. Management must retain current applications as long as their status on the Wait List is active.
2. Once the applicant is removed from the Wait List, management must retain the application, initial rejection notice, applicant reply, copy of management's response and all documentation supporting the reason for removal from the list for 3 years.
3. When the applicant moves in, the application and supporting documents must be maintained in the resident file for the duration of the residency and for 3 years after move out.
4. All files must be kept secure and confidential.
5. The applicant or resident's file should be available for review by the applicant or resident upon request or by a third party who provides signed authorization for access from the applicant or resident.
6. Management must retain for a minimum of 5 years documents submitted or provided by the family as part of the DHS appeal or the informal hearing (application, income re-examination forms, copies of any original documents, signed verification consent forms, DHS verification results, request for DHS appeal, final DHS determination, written request for an informal hearing and final informal hearing decision.)
7. Management **MUST** dispose of applicant and resident files and records in a manner that will prevent any unauthorized access to personal information (burn, pulverize, shred).

#### **Retention of EIV Data:**

- a. Social Security benefit reports
  - Management must retain reports obtained from EIV that are used as third party verification of a tenant's social security benefits where the information is provided by SSA for the term of tenancy plus three years after tenancy is terminated.
- b. NDNH (National Directory of New Hires) data reports
  - Management may only retain reports obtained from EIV, either electronic or paper, for a period of **two years**. At the time of recertification, the LANDLORD must destroy any EIV

reports in the tenant's file that contain NDNH new hire, wage or unemployment compensation benefit data that is two years old. However, any tenant provided documentation, or other third party verification of income, received to supplement the NDNH data must continue to be retained in the tenant file for the term of tenancy plus three years after tenancy is terminated.

c. Social Security benefits and NDNH data in a combined report

- If a tenant is receiving both SS/SSI benefits and employment or income information from NDNH and the information is contained in one report, the retention requirements for NDNH data reports apply.
- The LANDLORD does have the discretion to separate the data contained in the income report, e.g., cutting the NDNH data from the report and destroying the NDNH data at the end of the two-year period. The LANDLORD choosing this option must retain the SS/SSI benefit information for each household member and any tenant provided documentation, or other third party verification of income received to supplement the NDNH data for the term of tenancy plus three years after tenancy is terminated.

d. Management should make a notation in the tenant file when NDNH data is destroyed. The notation should state that the NDNH employment and income information obtained from the EIV system was used for verification of the employment source and, if applicable, for determining the tenant's income from wages and/or unemployment compensation as well as the date the information was destroyed.

**Security of EIV Data:**

The data in EIV contains personal information on individual tenants that is covered by the Privacy Act, (SSNs, names, DOBs, SS/SSI benefits, wages, unemployment compensation benefits and new hires (W-4)). This information may only be used for limited official purposes - by Management for verifying the employment and income at the time of recertification, by CAs for monitoring and oversight of the tenant recertification process and by OIG investigators for investigative purposes. Official use does **not** include sharing the information with governmental entities not involved in the recertification process used for HUD's assisted housing programs, e.g., the LIHTC and RHS Section 515 without Section 8 programs or HUD insured financing.

Disclosing the EIV information to Management for use under the LIHTC and RHS Section 515 programs is not allowed since neither the Internal Revenue Service (IRS) nor RHS are a party to the computer matching agreements the Department has with Health and Human Services (HHS) and with the SSA. The fact that there is financing through other federal agencies involved in a particular property under one of the authorized HUD programs does not then permit that federal agency to use or view information in the EIV system that is covered by the computer matching agreements. The computer matching agreements are governed by the Privacy Act and the Social Security Act. For example, Sections 453(j)(7)(E)(ii) and (iv) of the Social Security Act limits disclosure of the data matched between HUD and HHS' NDNH to public housing agencies, the IG, the Attorney General, private owners, management agents and contract administrators.

All users of the EIV data must adhere to the EIV Rules of Behavior included in the access authorization form they sign at the time of requesting access to EIV. The access form and Rules of Behavior are posted on the Multifamily EIV website at: <http://www.hud.gov/offices/hsg/mfh/rhiip/eiv/eivhome.cfm>

**VAWA:**

Landlord must retain all documentation relating to an individual's domestic violence, dating violence or stalking in a separate file that is kept in a separate secure location from other resident files.

*\* If this applies to the program in the unit that you are applying for.*

## CERTIFICATION PROCESS:

**Annual Recertification** - Every year around the move in anniversary date, management will request the resident to report the income and composition of the resident's household and to supply any other information required by HUD for the purposes of determining the residents rent and assistance payment, if any. The citizenship/immigration status will be determined from family members not previously collected or whose documentation suggested that their status was likely to change. The required citizenship/immigration status for any new family member must be submitted at the first interim or annual recertification after the person moves in to the unit. An updated Owner's Summary of Family sheet including the new household member will also need to be completed at this time. In the event household composition or head of household changes, an updated Race & Ethnicity form will need to be completed, noting the new Head of Household and family members related to the new HOH.

At 120 days prior to the anniversary date of move in, management will begin to send notices to the household requiring they schedule an appointment to interview with management in order to supply all required information. The Resident agrees to provide accurate statements of this information and to do so by the date specified in management's request. Management will verify the information supplied by the Resident and use the verified information to recompute the amount of the Resident's rent and assistance payment, if any. HUD's EIV system along with third party verification will be utilized for resident income verification.

At the time of annual recertification current Residents will be required to certify that they or members of their household are not Registered Sex Offenders. Registered Sex Offenders will not be permitted to remain at the apartment community. Criminal activity reports will be generated on all \*adult members who have been added to the household after initial move-in.

In the event a derogatory criminal report is received, the Head of Household will be notified of the proposed denial of their or other family member's admission for occupancy if reporting on a new member of the family; or, the Head of Household will be notified of any current family member's derogatory report. The notification will include the criminal activity report that the decision was based upon, and information advising that 14 days will be provided to respond with an explanation and to request further consideration (obtain agency documentation (court, police, etc)).

If the Resident does not submit the required recertification information by the date specified in management's request, management will implement penalties only in accordance with the administrative procedures and time frames specified in HUD's regulations, handbooks and instructions related to the administration of multifamily subsidy programs.

1. Require the Resident to pay the higher, HUD-approved market rent for the unit.
2. Implement any increase in rent resulting from the recertification processing without providing a 30-day notice.

The resident may request a meeting with management to discuss any change in rent or assistance payment resulting from the recertification process. Management will agree to such a meeting to discuss how the Resident's rent and assistance payment were computed.

**Criminal Screening** - At time of annual recertification, current Residents will be required to certify that they or any member of their household are not subject to a lifetime sex offender registration requirement. For any admissions after June 25, 2001 (effective date of HUD's final rule), if the recertification screening reveals that the resident or a member of the resident's household is subject to a lifetime sex offender registration requirement, Management will pursue eviction or termination of tenancy of the family or covered person to the extent allowed by their lease and state or local law.

At time of annual recertification, for any admissions after June 25, 2001 (effective date of HUD's final rule), if the recertification screening reveals that the resident or a member of the resident's household falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification forms, Management will pursue eviction or termination of tenancy to the extent allowed by their lease and state or local law.

If it is disclosed by the family upon annual recertification screening that a criminal act (felony or misdemeanor, plea's of lesser charge, etc) by a family member has occurred since the last annual recertification, notification as indicated below will be sent to the household. Sufficient evidence of acquittal, approved supervised treatment or rehabilitation program, parole officer report, etc will be required for consideration of continued eligibility and residency. If no such

evidence is produced or if Management determines that the criminal activity warrants removal of the family or family member, Management will begin eviction proceedings in accordance with the lease. If Management determines that continued eligibility exists and the offending person continues to engage in criminal activity, whether satisfying a criminal standard of proof of the activity, that Management determines threatens the health, safety, or right to peaceful enjoyment of the premises by other residents will be removed from the property in accordance with the lease.

In accordance with the regulation at 24 CFR 5.861, Management will terminate tenancy and evict the resident through judicial action for criminal activity by a covered person (HOH, Spouse, Co-head or other family member) if Management determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested, or convicted for such activity and without satisfying a criminal standard of proof of the activity. Management will take into account such circumstances as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action and whether the leaseholder, if not the wrongdoer, took all feasible steps to prevent the offending action from occurring and has removed the offending person from the lease or otherwise banned the offending person from the premises in the future. Any decision based on “reasonable belief” or other “determination” of Management, the reason for the belief or determination will be documented for the resident file. This documentation should not be only of specific behavior but that the behavior would (or does) interfere with the health, safety, or peaceful enjoyment of other residents.

Notwithstanding the above, if a resident or a member of a resident’s household, regardless of when they were admitted, commits criminal activity while living in federally assisted housing, Management will pursue eviction or termination of tenancy to the extent allowed by their lease and state or local law.

In the same regard, if Management determines or has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents will be removed from the property in accordance with the lease.

All criminal rulings, whether Adjudicated (act of making a judicial ruling such as a judgment or decree) or unsettled, that is identified on a criminal screening report, will be reviewed by Management for determination of continued eligibility, whether felony or misdemeanor. Adjudication results declaring, “Non Adjudication of Guilt” for example may require the offending person to provide Management with additional information such as: type of crime, probation term or community service term, rehabilitation program, etc. Any criminal database search that reveals criminal activity will require an explanation to Management for determination of continued eligibility.

If it is discovered during the annual screening that any household member was evicted from Federally-assisted housing for drug-related criminal activity for five (5) years from the date of eviction, sufficient evidence of continued attendance or completion of a supervised drug treatment program, etc; or, if circumstances leading to the eviction no longer exist, Management will consider those extenuating circumstances so long as there have been no evidence of continued offenses and Management determines that the family member will not interfere with the health, safety or right to peaceful enjoyment of the property.

Police officers and other security or management personnel that apply to rent subsidized units are subject to the same screening criteria as other applicants.

**Circumstances Relevant to a Particular Case** - Management will consider all the circumstances relevant to a particular household’s case such as: 1) the seriousness of the offense; 2) the degree of participation in the offending activity by the household member; 3) the effect denying residency would have on non-offending household members; 4) the extent to which the applicant household has taken responsibility and takes all reasonable steps to prevent or mitigate the offending action; and 5) the effect of the offending action on the program’s integrity.

**Notifying the Resident** - In the event a derogatory criminal report is received, the Head of Household will be notified of the proposed denial of their or other family member’s admission for occupancy if reporting on a new member of the family; or, the Head of Household will be notified of any current family member’s derogatory report. The notification will include the criminal activity report that the decision was based upon, and information advising that 14 days will be provided to respond with an explanation and to request further consideration (obtain agency documentation (court, police, parole officer statement, treatment or rehabilitation program Certificate of Completion or Continuation, etc)). If upon submission of information from the offending individual that Management determines to be unsatisfactory, Management will provide a determination.

Criminal activity reports will be generated on all \*adult members who will be added to the household prior to initial move-in.

*\* If this applies to the program in the unit that you are applying for.*

## Interim Certification

If any of the following changes occur, the Resident agrees to advise Management immediately:

1. Any household member moves out of the unit.
2. An adult member of the household who was reported as unemployed on the most recent certification or recertification obtains employment.
3. The household's income cumulatively increases by \$200 or more a month.

The resident should report any decrease in income or any change in other factors considered in calculating the Resident's rent. Management will need confirmation that the decrease in income or change in other factors will last less than one month. Management will verify the information provided and make the appropriate rent reduction. If the Resident's income will be partially or fully restored within two months, Management may delay the certification process until the new income is known, but the rent reduction will be retroactive and Management may not evict the Resident for nonpayment of rent due during the period of the reported decrease and the completion of the certification process. The citizenship/immigration status will be determined from family members not previously collected or whose documentation suggested that their status was likely to change. The required citizenship/immigration status for any new family member must be submitted at the first interim or annual recertification after the person moves to the unit. The Resident has 30 days after receiving written notice of any rent due for the above described time period to pay or Management can evict for nonpayment of rent.

If the Resident does not advise Management of these interim changes, Management may increase the Resident's rent to the HUD-approved market rent.

The resident may request a meeting with management to discuss how any change in income or other factors affected his/her rent or assistance payment, if any. Management will agree to such a meeting to discuss how the Resident's rent and assistance payment were computed.

**Removal of Subsidy** - Termination of assistance means that the Landlord may make the assistance available to another Resident and the Resident's rent will be recomputed. If the Resident's assistance is terminated because of item (1) below, the Resident will be required to pay the HUD approved market rent for the unit. Assistance made available on the Resident's behalf may be terminated if events in either item 1 or 2 below occur:

1. Resident does not provide Management with the information or reports required by the Annual Certification or Interim Certification within 10 calendar days after receipt of Management's notice of intent to terminate the Resident's assistance payment.
2. The amount the Resident would be required to pay towards rent and utilities under HUD rules and regulations equals the Family Gross Rent shown on Attachment 1 of the lease, form HUD 50059 Certification and Recertification of Resident Eligibility.

Management agrees to provide the Resident written notice of the proposed termination. The notice will advise the Resident that, during the ten calendar days following the date of the notice, the Resident may request to meet with Management to discuss the proposed termination of assistance. Management agrees to meet with the Resident to discuss the proposed termination if the Resident requests such a meeting.

It is the policy of this community to provide reasonable accommodations to our Residents who are disabled and because of that disability need a change or exception to our usual rules or policies to be able to participate in the hearing process. Should there be a special need; the Resident should promptly contact the Community Manager.

Termination of assistance shall not affect the Resident's other rights within the Lease guidelines, including the right to occupy the unit. Assistance may be reinstated if the Resident submits the income or other data required by HUD procedures, Management determines the Resident is eligible for assistance and assistance is available.

**Unit Inspection** – Before executing a lease, a Move in inspection must be conducted at the time of move in by an adult member of the household and management. A statement of the condition of the apartment will be signed by the resident



and management the day of the inspection. The inspection form must indicate the condition of the unit. The condition of the unit must be decent, safe, sanitary and in good repair. If cleaning or repair is required, management must specify on the inspection form the date by which the work will be completed. The date must be no more than 30 days after the effective date of the lease. The Resident has 5 days after the effective date of the lease to report any additional deficiencies to management to be noted on the move in inspection form. Items noted within the 5 day period from Move-in will not be charged to the resident. The Move in Inspection form is an attachment to the lease.

**Annual Inspections** – Annual inspections will be made of all units as part of our preventative maintenance program to determine unit condition. RESIDENT will be notified at least 5 days in advance of such inspection. Areas of inspection will include, but not be limited to: stoves, refrigerators, drapes, blinds, walls, tiles, carpet, windows, etc.

**Repairs** - All repairs to the living unit will be made by the Landlord, the Landlord's Agent, or the Landlord's employees at the expense of the Landlord, except for those repairs that are not considered normal wear and tear and are caused by the Resident. The cost of repairs caused by the Resident will be borne by the Resident. Whenever damage is caused by carelessness, misuse, or neglect on the part of the Resident, household member, or visitor, the Resident is obligated to reimburse the owner for the damages within 30 days after the Resident receives a bill from management. Upon notice to the Resident and during normal working hours, service repairs requested by the Resident and preventative maintenance work will be performed in the living unit whether the Resident is home or not.

Resident should immediately inform Management of any repairs needed so that repairs can be promptly made. Service requests will be responded to within 24 hours.

**Move-out Inspection** – Resident will be encouraged to participate in the move out inspection. If the resident is with management during the inspection, disagreements between the resident and management regarding unit damage can be resolved up front. If the resident is not available or does not want to participate, management will conduct the inspection alone. If management determines that the unit is damaged as a result of resident abuse or neglect, management may use the security deposit to cover the repair costs.

A list of damage charges will be provided to the resident at move-out.

**Pet Policy - Pets are not permitted at Robert Smalls Apartments.**

**Assist/Service Animals** – Assistance/service animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or animals that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assist/Service animals are not covered or related to in the Pet Rules/Regulations/Agreement. Should a resident require an Assist/Service animal, they should contact the Community Manager and as part of the Reasonable Accommodation policy.

**SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE FAIR HOUSING ACT AMENDMENTS OF 1988 – The property will seek to identify and eliminate situations or procedures, which create a barrier to equal housing opportunity for all. In accordance with Section 504, the Property will make reasonable accommodations and structural modifications for individuals with disabilities (applicants or residents). Such accommodations may include changes in the method of administering policies, procedures, services and making structural modifications when necessary.**

The relay center is a neutral, non-involved party, merely relaying information and aiding with communicating with a hearing-impaired person. Should an applicant/resident find themselves in need of additional services. The property will seek at a local level, costs for such services (interpreters, printing services for large print items, Braille, etc) so as to have the service readily available in the event services would be needed.

Upon request, reasonable accommodations will be provided for individuals who are disabled. This request is available to all applicants and residents. Should an applicant/resident be in need of accommodations in addition to those mentioned above, they should notify the Community Manager of their need and complete and sign the Resident's Reasonable Accommodation Request Form. For the need of an assist or service animal, Form B (Resident's Reasonable Accommodation Request Form) and Form C (Reasonable Accommodations Verification Form) should be completed, signed and returned. Once the Community Manager receives the completed Reasonable Accommodation Request forms from the applicant or resident, the Community Manager will forward the form to the verifier, and once returned will notify the applicant/resident of the determination. Should the request be denied, the resident may appeal the decision by requesting in writing a meeting with the Community Manager and their Supervisor as noted in the Grievance Procedure Policy.



**\*\*The Community Manager must obtain approval from their Regional Property Manager prior to scheduling any work, making an accommodation or purchasing any equipment or item.\*\***

1. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance from HUD.
2. The Fair Housing Act prohibits discrimination in housing and housing related transactions based on race, color, religion, sex, national origin, disability and familial status. It applies to housing, regardless of the presence of federal financial assistance.
3. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in any program or activity receiving federal financial assistance from HUD.

Definitions: **Reasonable Accommodation-** includes curb cuts, designated parking spaces and TTY services. Other accommodations may include, upon request, lighted smoke detectors, peephole door adjustment, audible alarm system in common areas and units, readers, brailled material, audio recordings, handset amplifiers, interpreters, written material, electrical outlet by phone hookup, apartment door light system to announce visitors, tactile signage in common areas and on entry doors, referral to sources of programs or services in accessible facilities, install rails, ramps, grab bars, etc.

**Elderly Family** - Elderly family is described as a family whose head or spouse or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Disabled Family** – A disabled family is a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

**Live-in Aide** – A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who is determined to be essential to the care and well-being of the persons; is not obligated for the support of the persons; and would not be living in the unit except to provide the necessary supportive services. A Live-in Aide will be required, where applicable, to complete and sign a Live-in Aide Questionnaire/Agreement. Likewise the Resident will be required to agree to the terms and conditions, and sign the Live-in Aide Addendum to Lease.

**Assist/Service Animals** - Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or animals that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. The Resident will agree to complete all forms associated with an assist/service animal (Reasonable Accommodation Request Form, Verification Form) and agrees to complete, and sign the Assist Animal Agreement and to abide by the terms of that Agreement. Once an assist/service animal is in place in the resident unit, Resident agrees to not acquire additional or different animals without permission of the landlord. At such time that a change is made of an assist/service animal, the Reasonable Accommodation package (Forms B-E) will be reviewed by the Community Manager for completion by the Resident. A Pet Deposit will not be charged for an assist/service animal.

**LEP** – The HUD Model Lease is available on the HUD Website in multiple languages and the HUD Fact Sheet is available in multiple languages can be accessed by the link below:

<http://www.hud.gov/offices/adm/hudclips>

Documents/forms must be provided in English and also in the language that is prominent in the marketing area. The English version will prevail and should be the form that contains the signature and date fields. The signed and dated English form and the resource form in the language of choice should be stapled together (English version on top) and placed in the Applicant/Resident file.

The LEP Policy should be displayed on the Rental Office bulletin board. Utilization of the HUD, “I Speak” language card must be prominently displayed in the office, at the leasing desk, on the bulletin board with the LEP Policy, etc so that it is easily accessible to site staff and potential applicants and residents. The LEP Policy should be included in the Application and Annual Recertification Package. For oral interpretations, telephone interpreter lines and community liaisons proficient in the language of the LEP person (must be resourceful in providing language assistance as long as quality and accuracy of language services are not compromised) can be contacted in advance of the need for their supportive services to inquire of the cost to supply such service should one be needed. There are also national and state interpreter organizations. The table below sets forth “safe harbors” for written translations:

| Size of Language Group   | Recommended Provision Language Assistance                          |
|--|--|
| 1,000 or more in the eligible population in the market area or among current beneficiaries | Translated vital documents   |
| More than 5% of the eligible population or beneficiaries <i>and</i> more than 50 in number | Translated vital documents   |
| More than 5% of the eligible population or beneficiaries and 50 or less in number          | Translated written notice of free oral interpretation of documents |
| 5% or less of the eligible population or beneficiaries and less than 1,000 in number       | No written translation is required                                 |

Interpretation and Translation Resources and documents can be found at the following link:

[http://www.lep.gov/interp\\_translation/trans\\_interpret.html](http://www.lep.gov/interp_translation/trans_interpret.html)

**GRIEVANCE PROCEDURE** – Robert Smalls Apartments does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs and activities. In the event there is a Management or Maintenance issue, the resident/applicant should first contact the Community Manager in writing. The Community Manager is the first point of contact if a problem should arise. If unsatisfied with the Community Manager response, the resident/applicant should then write to the area supervisor at:

E&G Group  
Attn: Regional Manager  
1651 Old Meadow Road Suite 305  
McLean, VA 22102  
703.893.0303

If not satisfied, then to:

E&G Group  
Attn: Director of Compliance  
1651 Old Meadow Road Suite 305  
McLean, VA 22102  
703.893.0303

If unsatisfied with the Area Supervisor response, the resident should then write to:

U.S. Department of Housing and Urban Development  
Columbia, SC Field Office

In reaching a reasonable accommodation with, or performing structural modification for otherwise qualified individuals with disabilities, the Property is not required to:

- Make structural alterations that require the removal or altering of a load-bearing structure,
- Provide support services that are not already part of its housing programs,
- Take any action that would result in a fundamental alteration in the nature of the program or service, or
- Take any action that would result in an undue financial and administrative burden on the Property, including structural impracticality as defined in the Uniform Federal Accessibility Standards (UFAS).

**REASONABLE ACCOMMODATION** - It is the policy of the community to provide reasonable accommodation to our Applicants or Residents who are disabled and because of that disability need a change or exception to our usual rules or policies to be able to fully use and enjoy this community. It may be necessary, therefore, to obtain documentation of the need for the requested accommodation.

Upon request, reasonable accommodations will be provided for individuals who are disabled. This request is available to all applicants and residents. An applicant/resident should notify the Community Manager of their need and if applicable, complete and sign the Reasonable Accommodation Request Form. The Community Manager will forward the form to the verifier, and once returned will notify the applicant/resident of the determination.

If the Applicant/Resident requests reasonable accommodations the Applicant/Resident may need to provide the following information and forms:

- Complete and return to the leasing office Form B, Resident's Reasonable Accommodations Request Form.
- Complete and sign Form C, Reasonable Accommodations Verification Form and return it to the leasing office with Form B.
- Upon receipt of the Verification Form, management will mail the form to the verifying authority.
- When it is returned, management will notify applicant/resident in writing of the determination concerning the request. Should the request be denied, the applicant/resident will be provided with a reason for the denial and information relative to participating in a meeting to discuss the denial within 5 calendar days of receiving the grievance. Once a meeting is held, management will provide a summary of the meeting and written determination to the applicant/resident within 10 calendar days of the meeting date. Persons with disabilities may request reasonable accommodation in order to participate in the meeting/hearing process.
- Assist Animals are not considered pets; however, forms for these animals will need to be completed. If an applicant/resident is requesting an assist or service animal, you will need to sign Form D, Assist Animal Agreement and complete and sign Form E, Assist Animal Information form.
- If applicant/resident needs assistance with any of the aforementioned forms, please contact the Community Manager at the leasing office.

## **HOUSE RULES:**

House Rules and Regulations will be updated as deemed necessary for the safety, care and cleanliness of the premises, and for securing the comfort and convenience of all of the Residents. House Rules and Regulations will also be updated as required by HUD. Should an update to the House Rules and Regulations be necessary, a 30-Day Notice to the residents along with a full copy of the House Rules and Regulations will be provided to all current residents for their review and acceptance at the end of the 30-day review period. Once the 30-Day review period has expired, the Rules and Regulations will be effective and made part of the lease.

## **FRAUD:**

Owner/Management has committed to fraud prevention and detection.

Fraud is a criminal act in which individuals, groups, or businesses steal taxpayers' monies from HUD and its programs. Fraud can also lead to violent crime. When fraud occurs, residents become victims and HUD's programs are abused. Applicants/residents who make false statements regarding their income or family size, or alter official documents are committing fraud.

Any information provided by the applicant that verification proves to be untrue may be used to disqualify the applicant for admission or cause a resident, during the recertification process, to be evicted on the basis of attempted fraud. When completing the application process, the Community Manager or leasing specialist will inquire if the applicant has any questions they could clarify with regard to the forms that they have completed. The Property considers false information about the following to be grounds for rejecting an applicant:

- Income, assets, household composition
- Social Security Numbers
- Preferences and priorities
- Allowances
- Previous residence history or criminal history
- Citizenship, naturalization, and/or eligible non-citizen status.

Unintentional errors that do not cause preferential treatment will not be used as a basis to reject applicants.

Any investigation of fraud or other criminal activity will not be disclosed except to the appropriate law enforcement authorities. Owner/Management will not retaliate against residents who report fraud, criminal activity, or other program irregularities.

If a resident commits fraud to obtain assisted housing from HUD, they could be:

- Evicted from their apartment or house.
- Required to repay all overpaid rental assistance they received.
- Fined up to \$10,000.
- Imprisoned for up to five years.
- Prohibited from receiving future assistance.
- Subject to State and local government penalties.

Residents should be aware:

- Don't pay money to have someone fill out housing assistance application and recertification forms for you.
- Don't pay money to move up on a Wait List.
- Don't pay for anything that is not covered by your lease.
- Get a receipt for any money you pay.

- Get a written explanation if you are required to pay for anything other than rent (maintenance or utility charges).

If applicant/resident(s) know of anyone who provided false information on a HUD housing assistance application or recertification or if anyone tells them to provide false information, the applicant/resident should report that person to the HUD Office of Inspector General Hotline. The applicant/resident can call the Hotline toll-free Monday – Friday, from 10:00 a.m. to 4:30 p.m., Eastern Time, at 1-800-347-3735. They can fax information to (202) 708-4829 or email it to [Hotline@hudoig.gov](mailto:Hotline@hudoig.gov). They can write the Hotline at:

UD OIG Hotline, GFI  
451 7<sup>th</sup> Street, SW  
Washington, DC 20410

## **VIOLENCE AGAINST WOMEN ACT 2005**

The Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA) provides legal protections to victims of domestic violence, dating violence, or stalking. These protections prohibit Management from evicting or terminating assistance from individuals being assisted under a project-based Section 8 program if the asserted grounds for such action is an instance of domestic violence, dating violence, or stalking based on acts of such violence against them. The VAWA protections apply to families applying for or receiving rental assistance payments under the project-based Section 8 program.

Being a victim of domestic violence, dating violence or stalking as these terms are defined in the law is not a basis for denial of assistance or admission to public or assisted housing if the applicant (male or female) otherwise qualifies for assistance or admission.

As an applicant, if a family member is a victim of violence and feel that this has had a negative impact on their past rental history; or, as a current resident the individual believes that they are a victim of domestic violence, dating violence or stalking, the individual should be advised to contact the Community Manager. If the Applicant/Resident prefers a telephone call or the information mailed to them, the Applicant/Resident must provide in their writing, a secure address or telephone number where they can be contacted. The Community Manager will advise the Applicant/Resident of the information that will be need to completed by the Applicant/Resident (form HUD 91066). Through form HUD 91066, Management will request an applicant or resident to certify that he/she is a victim of domestic violence, dating violence or stalking and that the incidence(s) of threatened or actual abuse are bona fide in determining whether the protections afforded under the VAWA are applicable. Management should be mindful that the delivery of the Certification form to the resident via mail might place the victim at risk if for example the abuser monitors the mail. In order to mitigate risk, Management should work with the applicant/resident in making acceptable delivery arrangement, such as inviting them into the office to pick up the Certification Form or making other discreet arrangements that would not place the victim at risk.

The Community Manager should place form HUD 91066, Certification of Domestic Violence, Dating Violence or Stalking into the Application Package to encourage applicants to disclose information relative to a negative criminal report with regard to abuse. In addition, the individual may also produce official documentation or physical proof of the individual's status as a victim in order to receive the protections of the VAWA. Management, at their discretion may provide assistance to an individual based solely upon the individual's statement or other corroborating evidence. If a Criminal Report has negative results this does not necessarily mean that it is an automatic denial if such report is in connection with abuse if the incident of violence is reported and confirmed.

Documentation an individual may provide in lieu of the Certification (HUD 91066):

- A Federal, State, tribal, territorial, or local police or court record; or
- Documentation signed by an employee, agent or volunteer of a victim service provider, an attorney or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking, or the effects of abuse, in which the professional attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation.

The documentation must be returned to the Community Manager at the Rental Office. If the family member has not provided the requested information by the 14<sup>th</sup> business day or any extension of the date provided by Management, none of the protections afforded to victims of domestic violence, dating violence or stalking under the Section 8 or public housing programs apply and LANDLORD would be free to evict, or to terminate assistance, in the permitted manner authorized by otherwise applicable law and lease provisions.

If it is determined that physical abuse caused by a resident is clear and present, LANDLORD may remove (bifurcate) a household member from a lease without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights or terminate assistance to any individual who is a resident or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to or otherwise penalizing the victim of such violence who is also a resident or lawful occupant, and such eviction, removal, termination of occupancy rights or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing (evict using your normal eviction procedures). In the event of a termination or start of an eviction for cause proceeding, the Certification form (HUD 91066) should be enclosed with the appropriate notice, directing the family to complete, sign and return the form within fourteen (14) business days. If the family member has not provided the requested information by the 14<sup>th</sup> business day or any extension of the date provided by Management, none of the protections afforded to victims of domestic violence, dating violence or stalking under the Section 8 or public housing programs apply and Management would be free to evict, or to terminate assistance, in the permitted manner authorized by otherwise applicable law and lease provisions. In the event a household member is removed from the unit because of engaging in acts of domestic violence, dating violence or stalking against another household member, an interim recertification should be processed reflecting the change in household composition.

It is possible for someone lawfully occupying the unit, who is also a victim, to be evicted or removed from the home. If the victim commits separate criminal activity, a landlord may evict them for engaging in crime. Furthermore, if a victim poses “an actual and imminent threat to other tenants or those employed at or providing service to the property,” they could be evicted, despite the VAWA. Of paramount consideration within the VAWA is that the landlord may not hold the victim to a more demanding standard than other tenants.

Pursuant to Notice H 08-07, the law offers the following protections against eviction or denial of housing based on domestic violence, dating violence or stalking:

- a. A. An applicant's or program participant's status as a victim of domestic violence, dating violence or stalking is not a basis for denial of rental assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.
- b. An incident or incidents of actual or threatened domestic violence, dating violence or stalking will not be construed as serious or repeated violations of the lease or other “good cause” for terminating the assistance, tenancy, or occupancy rights of a victim of abuse.
- c. Criminal activity directly related to domestic violence, dating violence or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights of the victim of the criminal acts.
- d. Assistance may be terminated or a lease “bifurcated” in order to remove an offending household member from the home. Whether or not the individual is a signatory to the lease and lawful tenant, if he/she engages in a criminal act of physical violence against family members or others, he/she stands to be evicted, removed, or have his/her occupancy rights terminated. This action is taken while allowing the victim, who is a tenant or a lawful occupant, to remain.
- e. The provisions protecting victims of domestic violence, dating violence or stalking engaged in by a member of the household, may not be construed to limit the LANDLORD, when notified, from honoring various court orders issued to either protect the victim or address the distribution of property in case a family breaks up.
- f. The authority to evict or terminate assistance is not limited with respect to a victim that commits unrelated criminal activity. Furthermore, if the LANDLORD can show an actual and imminent threat to other tenants or those employed at or providing service to the property if an unlawful tenant's residency is not



terminated, then evicting a victim is an option, the VAWA notwithstanding. Ultimately, LANDLORDs may not subject victims to more demanding standards than other tenants.

- g. The VAWA protections shall not supersede any provision of any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence or stalking. The laws offering greater protection are applied in instances of domestic violence, dating violence or stalking.

All information provided relating to the incident(s) of domestic violence, including the fact that an individual is a victim of domestic violence shall be retained in confidence by Management and shall neither be entered into any shared database nor provided to any related entity, except to the extent that such disclosure is (i) requested or consented to by the individual in writing; (ii) required for use in an eviction proceeding or termination of assistance; or (iii) otherwise required by applicable law.

#### Definitions:

**Domestic Violence**: Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitated with or has cohabited with the victim as a spouse by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an \*adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Dating Violence**: Violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

**Stalking**: To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

**Immediate Family Member**: A spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.

**Bifurcate** means to divide a lease as a matter of law so that certain residents can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

#### Help for Victims: Hotline Numbers

- If you, or someone you know, are a victim of domestic violence, please call:  
[National Domestic Violence Hotline](#)  
1-800-799-SAFE (7233)  
1-800-787-3224 (TTY)
- If you, or someone you know, are a victim of sexual assault, please call:  
[Rape, Abuse, and Incest National Network \(RAINN\)](#)  
To be connected to the rape crisis center nearest to you, dial  
1-800-656-HOPE (4673)  
  
[National Sexual Violence Resource Center \(NSVRC\)](#)  
1-877-739-3895
- If you, or someone you know, are a victim of stalking, please call:

[National Center for Victims of Crime, Stalking Resource Center](#)

1-800-394-2255

1-800-211-7996 (TTY)

- If you, or someone you know, are a victim of dating violence, please call:  
[National Teen Dating Abuse Helpline](#)  
1-866-331-9474  
1-866-331-8453 TTY

The Tenant Selection Plan as written shall be updated and amended as needed to comply with HUD Regulations. The Tenant Selection Plan shall be posted in the Rental Office and in the Project Book noting the last revised date of the Plan.

**\*Adult** – Definition: an individual who is 18 years of age or older or a minor under the age of 18 who has been emancipated to act on his/her own behalf, including the ability to execute a contract or lease.

*\* If this applies to the program in the unit that you are applying for.*

**It is the policy of Robert Smalls Apartments to provide housing on an equal opportunity basis. We do not discriminate on the basis of race, religion, color sex, familial status, national origin, disability, or any other Federal, State or local protected individuals. This property does not discriminate on the basis of disability status in the admission or access to, or treatment of employment in its federally assisted programs or activities.**