

## Chapter 18

# MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY (SRO) DWELLINGS FOR HOMELESS INDIVIDUALS

### 18-1 Introduction

The Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program (Moderate Rehabilitation Program) is funded under the McKinney Act. The BHA Moderate Rehabilitation Program is a joint effort between BHA and local, not-for-profit agencies that own property that is in need of rehabilitation in order to restore the dwelling to meet local building codes.

The purpose of the Moderate Rehabilitation Program is to provide Section 8 rental assistance for homeless individuals in rehabilitated single room occupancy housing. The Moderate Rehabilitation Program rental subsidy **is not** transferable, and the participant will only receive the rental assistance if residing in the Mod Rehab unit.

The BHA, on behalf of HUD, enters into a Moderate Rehabilitation Program Housing Assistance Payment (HAP) Contract with a housing provider for a specific building.

The contract for any unit rehabilitated in accordance with the program guarantees the rental subsidy for a minimum of 10 years initially, and is renewed annually thereafter.

- The minimum tenant portion of rent for the program is \$50 (see Section **Total Tenant Payment** for the minimum rent hardship provisions)
- At present the BHA is providing rental subsidies for two projects:
  - University Avenue Homes (1040 University Avenue); and
  - Erna P. Harris (1330 University Avenue)

### 18-2 Applicant Qualifications

Consistent with the current homeless definition used for the McKinney Supportive Housing Programs, eligible applicants must be homeless individuals defined as:

- An individual who has a primary nighttime residence that is
  - A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, and motels paid for with emergency shelter vouchers);
  - Transitional housing, and prior to that was homeless and living on the streets or in an emergency shelter, and upon leaving transitional housing has no resources to obtain permanent housing
  - An institution that provides a temporary residence for individuals intended to be institutionalized, provided that the applicant has spent less than 90 days there and prior to that had been staying in one of the three categories listed above; or
  - A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; and

Individuals may not have income above 50% of area median income as defined by HUD.

### **18-3 Family Participation**

BHA is responsible for receipt and review of applications, and determination of eligibility for participation in accordance with HUD regulations. The Owner must lease all assisted units under HAP contract with the Moderate Rehabilitation Program to eligible individuals.

The owner is responsible for managing the property, and advising BHA when a unit is no longer occupied by the assisted individual. This includes providing notice to BHA as soon as the owner knows, or should know, that the individual is not actively occupying the unit.

### **18-4 Outreach to Homeless Individuals**

To ensure that homeless individuals are aware of this housing opportunity the BHA shall provide written notice to interested individuals and groups advising:

- The availability of the housing resources at U.A. Homes and Erna P. Harris;
- The method for applying; and
- Eligibility criteria.

Interested individuals will be instructed to contact the property manager at the site (applicants may express interest at one or both properties) to receive consideration for current and/or future vacancies.

The above –mentioned notice shall be:

- Posted at the BHA office and on the website; and
- Mailed annually, in July, to the following organizations serving the homeless population in the City of Berkeley:
  - Building Opportunities for Self-Sufficiency (BOSS)
  - Berkeley Food and Housing Project (BFHP)
  - Berkeley One-Stop
  - Lifelong Medical Care
  - Women’s Daytime Drop-In Center
  - Homeless Action Center
  - Options for Recovery Services Inc.
  - Youth Emergency Assistance Hostel (YEAH!)
  - Bonita House
  - Rubicon
  - City of Berkeley Departments and Divisions that provide services directly to the homeless, such as the Division of Mental Health, Senior Services/Aging, Department of Public Health
  - Known churches, synagogues, and other religious organizations with homeless outreach programs; and
  - Other formal homeless outreach organizations as they are identified

### **18-5 Interest List Management**

The Property Owner shall maintain an Interest List. The Owner shall purge the Interest List every twelve months to ensure the list is kept up-to-date. The process for purging the list shall

include contacting the interested individuals via 1st class mail AND phone to the interested individual's designated representative as it appears on the interest card/preliminary application.

Interested individuals will be required to submit an update form and return it within thirty calendar days of mailing/phone contact to remain on the Interest List. If an interested individual fails to respond within the specified time period, the Owner shall withdraw the interested individual from the list and send the interested individual a notice that includes:

- The reason for the determination; and
- Information on how to request an informal review with the Owner to retain their place.

## **18-6 Owner Selection of Individuals**

The Owner is responsible for maintaining reasonable records to insure that all individuals expressing interest are afforded an opportunity to complete the application. Individuals submitting applications are referred to as Applicants. The Owner is responsible for identifying and referring potentially eligible Applicants to the BHA for a final determination of eligibility. Owner may assist/facilitate leasing by working with the individual to ensure a complete "eligibility packet" that includes valid CA identification; birth certificate or verification of birth date, city and state from Social Security administration, current proof of income and current asset verification (bank statements).

The Owner may serve interested individuals from the Interest List out of order if it is unable to reach the individual after utilizing reasonable efforts (i.e. mail or telephone).

The Owner may refuse any Applicant, provided the Owner does not unlawfully discriminate.

If an Applicant declines an available apartment when notified, he/she will be offered a second unit when available. If an Applicant declines an apartment a second time, his/her application will be removed from the waiting list. After receiving notification of unit availability, Applicants have five days to respond to management regarding the available apartment. If there is no response, the offer will be deemed to have been declined by the Applicant. If there are verifiable mitigating reasons beyond the Applicant's control that prevent an Applicant from moving at the time of offer, the Applicant will receive another unit offer.

## **18-7 Leasing Vacancies**

- The Owner will:
  - Conduct a thorough screening and evaluation of Applicants for tenancy on a uniform, consistent and non-discriminatory basis;
  - Keep on site, and provide to all Applicants, tenants and outreach agencies, a copy of the grounds for non-acceptance of the rental application; and
  - Advise the BHA in writing of the Applicant selected for tenancy in order to initiate rental subsidy payments. Said notice shall be accompanied by all the documentation required to establish eligibility including but not limited to:
    - A completed BHA Personal Declaration;
    - Current (within 30-days) income verification

- Proof that the individual is currently homeless, or was homeless during the 12 month period prior to the determination of eligibility (dated within 60-calendar days)
- BHA will promptly:
  - Contact the Applicant to obtain any additional documents required to determine program eligibility;
  - Inspect the unit designated for the Applicant within 10 business days of a request for inspection from the Owner
  - Review the program rules, including the owner, BHA and family obligations with the family
  - Provide the client (and Owner) written notice of the tenant rent portion
  - Review and obtain the individuals signature on the “Section 8 Moderate Rehabilitation Program Statement of Family Responsibility” (HUD Form 52578A)

### **18-8 Transfer List**

The Owner shall maintain a transfer list for existing clients wishing to move for one unit to another within the property. The list shall include, at minimum:

- The name of the resident
- The date of the request
- The type or location of the desired unit desired
- Any special medical or other documented need warranting transfer

Transfers from one unit to another type of unit within the property may take precedence over new move-ins. The Owner may not transfer a tenant from one unit to another without obtaining prior written approval from BHA. Approval shall be in the form of a “passed” Housing Quality Inspection. The BHA shall inspect the vacant unit within 10 business days.

The Owner must consider, outside of wait list order, a transfer for the following reasons:

- To provide a reasonable accommodation or verifiable medical necessity (i.e. wheelchair accessible unit or additional space for medical equipment);
- For emergency temporary relocation. If a unit becomes uninhabitable due to a catastrophe the resident will be given any open unit for temporary quarters until their own unit is repaired. An “open unit” is a unit for which the keys are in the possession of the management company.

### **18-9 Notice Of Non-Discrimination**

With respect to the treatment of Applicants, Owner will not discriminate against any individual because of race, color, creed, national or ethnic origin or ancestry, religion, sexual orientation, gender identify, age, disability, handicap, military status, source of income, marital status, Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS), or any other arbitrary basis.

No criteria will be applied or information considered pertaining to attributes of behavior that may be imputed by some particular group or category.

All criteria shall be applied equitably and all information considered on an Applicant shall be related solely to the attributes and behavior of the individual as may affect residency.

All criteria shall be applied equitably and all information considered from an applicant shall be related solely to the attributes and behavior of the individual as may affect tenancy.

BHA will assist any individual who alleges discrimination by staff and/or Owners including:

- Assisting the individual in completing HUD Form 903
- Referring the individual to the local legal aid society
- Referring the individual to the California Civil Rights Housing Authority; and
- Providing the individual with the toll free number for HUD's Office of Fair Housing in Washington, D.C.

### **18-10 Grounds for Non Acceptance**

The Owner is responsible for tenant selection and may refuse any Applicant provided that the Owner does not unlawfully discriminate. The Owner may choose not to accept applicants who meet the federal eligibility guidelines but according to established Grounds for Non-Acceptance that will include but are not limited to issues related to negative credit ratings, supply false information during the application process, disruptive behavior during the interview, or criminal activity. Written Grounds for Non-Acceptance will be provided to BHA in writing.

If an applicant is rejected, management will promptly notify the Applicant in writing, explaining in the notice the reasons for rejection and that the Applicant has 14 days to respond in writing or to request a meeting to discuss the rejection. If the Applicant believes that the Owner's rejection was the result of unlawful discrimination, the individual may request the assistance of BHA in resolving the issue and may also file a complaint with HUD's Office of Fair Housing and Equal Opportunity in accordance with 24 CFR 103.25. If the Applicant requests the assistance of BHA, and if BHA cannot resolve the complaint promptly, BHA will advise the Applicant that he or she may file a complaint with HUD, and provide the Applicant with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

### **18-11 Annual Reexamination**

At least annually, BHA will require the tenant to participate in a reexamination that will consist of a review of household composition, income and expenses.

At least annually, BHA will inspect the unit to determine compliance with minimum Housing Quality Standards (HQS). The Owner and Tenant will receive minimum 14-day advance notice of the scheduled inspection.

- If, as a result of the annual reexamination, or other notification, BHA determines that there are unauthorized household members, BHA will advise the tenant and the Owner of the requirement to remove the unauthorized person(s).
- If, as a result of the annual or any interim reexamination the BHA determines that the household size has changed such that the unit is overcrowded in accordance with HQS, the tenant must
  - Remove the additional person(s); or
  - Forfeit the subsidy and vacate the unit.

An individual's eligibility for housing assistance payments will continue provided:

- The tenant’s annual income does not exceed 50% of area median. If it does, the Owner must:
  - Give the resident six month notice to vacate the unit; or
  - If the Owner can meet the lower income percentage without the unit occupied by the tenant (by leasing another unit to a lower income individual at the appropriate rent), the owner may continue leasing to the individual, but is free to renegotiate the rent at the expiration of the current lease term.
- The tenant:
  - remains in compliance with the lease terms; and
  - is not at \$0 HAP for more than six months (eligibility may be reinstated as a result of changes in income or expenses.)

### 18-12 Project Move-Up

Subject to HUD approval, BHA will establish a program to facilitate the progression of individuals/families from homelessness – to housing via the Mod Rehab Program – to permanently affordable housing, via a Section 8 Tenant Based Voucher. The intent is to admit 3 individuals from BHA’s Single Room Occupancy Program (UA Homes and Erna P. Harris) each calendar year. These households must:

- a. Demonstrate lease compliance over the prior 12 month period
- b. Be clean and sober for the prior 12 month period
- c. Everyone 18 or older must Have stable monthly income from employment, self employment, retirement, CalWorks or Social Security sufficient to pay BHA’s minimum rent of \$50 per month plus any utility allowance;
- d. Utilize the assistance to rent a unit in Berkeley for 24 months before becoming eligible for portability

Candidates for this program must submit an application to the Section 8 Voucher wait list, and have a written referral from the property manager and/or case manager.

### 18-12 Termination of Participation

The BHA will terminate the family’s participation in the program upon:

Notification by the owner that the family has been evicted from the property for cause (i.e. non payment of rent; lease violations); or

The first of the seventh month, following six months where the family’s rent portion was 100% of the contract rent.

### 18-13 Relocation

Should any relocation of tenants be required as a result of major rehabilitation of the premises, the Owner shall adhere to any applicable local, state and federal relocation requirements including the Uniform Relocation Act.

#### **18-14 Monitoring of Social Services**

Providers of social services to tenants as part of the Moderate Rehabilitation Program shall submit annual reports to the Owner, who will make these reports available to BHA upon request for monitoring purposes. In addition, the City of Berkeley's Housing Department provides on-site monitoring of City-funded social services at Moderate Rehabilitation Program sites on a regular basis. Owner shall provide BHA a copy of all City of Berkeley monitoring reports within 30-days of receipt.

#### **18-15 Vacancy Loss and Damage Claims**

Vacancy loss is a reimbursable expense incurred by the project as a result of the abandonment and/or vacancy of the unit by the tenant. Vacancy loss is paid only for those days that the unit remains habitable but unoccupied by a tenant.

- The Owner should submit a vacancy loss spread sheet detailing the vacancy loss for each unit for which payment is sought.
- If vacancy payments are not submitted to BHA within 90 calendar days following the end of the quarter when the vacancy occurred, BHA may elect to not pay for the vacancy loss
- If the vacancy loss includes "unpaid rent", the BHA will not pay unless the Owner demonstrates reasonable actions to collect from the tenant.

#### **18-16 Vacancies from Execution of Contract to Initial Occupancy**

If a Contract unit that has been rehabilitated in accordance with this Program is not leased within 15 days of the effective date of the Contract, the Owner will be entitled to housing assistance payments in the amount of 80% of the Contract Rent. This vacancy loss payment is limited to a period not exceeding 60 days from the effective date of the Contract, provided that the Owner has:

- Taken and continues to take all feasible actions to fill the vacancy; and
- Not rejected any eligible Applicant except for good cause acceptable to BHA.

#### **18-17 Vacancies after Initial Occupancy**

- If a tenant vacates a unit, the Owner may receive the housing assistance payments due under the Contract for as much of the month in which the tenant vacates the unit and the unit remains vacant.
- Should the unit continue to remain vacant, the Owner may receive from BHA a housing assistance payment in the amount of 80% of the Contract Rent for a vacancy period not exceeding an additional month
- The Owner must reimburse any excess rent to BHA.
- The Owner will not be entitled to any payment under this section unless the Owner:
  - Has provided BHA notice of the vacancy as required in Section 31.4(B); and
  - Has taken and continues to take all feasible actions to release the unit to a qualified Applicant.
- If the Owner evicts an eligible subsidized household, the Owner will not be entitled to any vacancy loss payment unless BHA determines that the Owner complied with all requirements of the Contract, the Lease and all applicable laws.

## **18-18 Prohibition of Double Compensation for Vacancies**

The Owner will not be entitled to housing assistance payments with respect to vacant units under this section if the Owner is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments for unpaid rent under 24 CFR 882.414)

## **18-19 Security Deposits and Damage Claims**

If, at the time of the initial execution of the Lease, the Owner wishes to collect a security deposit, the maximum amount shall be the greater of one month's Total Tenant Payment (TTP) or \$50. However, this amount shall not exceed the maximum amount allowable under State or local law.

- For units leased in place, security deposits collected prior to the execution of a Contract which are in excess of this maximum amount do not have to be refunded until the subsidized household vacates the unit subject to lease terms.
- The tenant is expected to pay security deposits and utility deposits from its resources and/or other public or private sources.
- If a tenant vacates the unit, the Owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid Tenant Rent or other amounts that the tenant owes under the Lease.
- If a tenant vacates the unit owing no rent or other amounts under the Lease consistent with State or local law or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount of the unused balance to the tenant. Security deposits will accrue simple interest at the average rate paid on six-month certificates.
  - The applicable interest rate will be published by the City of Berkeley Rent Stabilization Program by November 15th of each year.
  - The Owner shall refund the amount of earned or imputed interest (through November) to the tenant each December as a cash payment or credit towards rent or other debts.
- If the security deposit is insufficient to reimburse the Owner for the unpaid Tenant Rent or other amounts that the tenant owes under the Lease, or if the Owner did not collect a security deposit, provided the owner has taken reasonable actions to collect from the tenant, the Owner may claim reimbursement from BHA for an amount not to exceed:
  - The amount owed the Owner; or
  - Two month's Contract Rent minus, in either case the greater of the security deposit actually collected or the amount of security deposit the Owner could have collected under the Program . Any reimbursement under this section must be applied first toward any unpaid Tenant Rent due under the Lease and then to any other amounts owed, No reimbursement may be claimed for unpaid rent for the period after the subsidized household vacates.

Designated BHA employees will review the documentation for expenses incurred and verify their legitimacy. An inspection of the premises may be arranged to validate the accuracy of the damage claim.

Damage claims must be submitted to BHA before the end of the next calendar quarter after move-out.



## **18-20 Reconciliation and Communication**

BHA and Owner will meet periodically, but no less than annually, to discuss issues pertaining to the Moderate Rehabilitation Program. The meeting will be scheduled at a time convenient to both parties, after BHA receives the Owners quarterly report of activities.

## **18-21 Termination Of Owner's HAP Contract By BHA**

Owners participating in the Moderate Rehabilitation Program can have their current contracts terminated and may be banned from future participation for violating Program rules and regulations. BHA has the option to deny participation by a property Owner if the Owner has:

- Collected side payments. Money paid by the tenant cannot exceed the approved amounts as stated in the Lease Agreement for rent, security deposits or utilities. Owners may charge the tenant for excessive use of utilities (water, sewer and garbage) if the allowable amount is exceeded and falls within the guidelines of the Water Department's definition of average usage for the number of occupants.
- Collected Housing Assistance Payments for units not occupied by approved participants;
- Bribed or attempted to bribe BHA employees to certify substandard units as standard, or to violate any other program rules or regulations;
- A record of chronic poor maintenance including failing to complete needed repairs required for HQS compliance and other provisions of the Housing Contract
- Received water/sewer/garbage shut offs for assisted properties and failed to act comprehensively and in a timely manner to restore service to the building including all units and common areas;
- Failed to report Program abuse to the BHA of which they are aware;
- Falsified documentation required by BHA, including efforts to fraudulently represent the date document(s) and/or information was provided;
- Submitted fraudulent vacancy loss and/or damage claims;
- If the owner has engaged or threatened abusive or violent behavior toward a tenant or BHA personnel or its agents
- Not paid State or local real estate taxes, fines, assessments, or repaid BHA or overpayments on assisted units;
- Failed to provide effective property management and maintenance, which leads to unsafe conditions;
- Overcharged Program participants by renting unassisted, comparable units at lower amounts;
- Violated obligations under the HAP Contract:
- Violated any obligation under the HAP contract for the dwelling unit, including the Owner's obligation to maintain the building, including the common areas and each living unit in accordance with HQS
- Violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act;
- Committed fraud, bribery or any other corrupt or criminal act in connection with any other federal housing program; or
- Engaged in drug trafficking.

If it is determined that the Owner has breached the Contract, BHA may implement one or more of the following sanctions:

- Recovery of overpayments;
- Abatement or other reduction of housing assistance payments;
- Termination of housing assistance payments; or
- Termination of the HAP Contract

The HAP Contract may also be terminated if:

- The tenant has been required to move from the unit because of overcrowding and fails to reduce the household size or move; or
- BHA determines, in accordance with HUD requirement, that funding under its Consolidated Annual Contributions Contract (CAAC) is insufficient to support continued assistance for tenants in the Program

The Owner must report all changes in unit occupancies, including move-ins and move-outs within 14 calendar days.

The tenant is not a party to, or third party beneficiary, of the HAP Contract. The subsidized household may not exercise any right or remedy against the Owner under the HAP Contract. Even if the tenant continues to occupy the unit, the BHA may exercise any right or remedy against the Owner under the HAP Contract.