



Berkeley Housing Authority

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SECTION 8 HOUSING CHOICE VOUCHER PROGRAM OWNER OBLIGATIONS IN FORECLOSURE ACTIONS

What is foreclosure?

A foreclosure is the legal process by which an owner's right to a property is terminated. It is a complicated process that can take several months to complete. The foreclosure process generally begins when a person misses a couple of payments on a mortgage loan.

Housing Assistance Payment (HAP) Contract

The Department of Housing and Urban Development (HUD) has issued a new HAP Contract that contains new language (in Section C) that adds the following text to the conditions under which an owner can terminate an assisted tenancy: "...during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, ... *and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner (i) will occupy the unit as a primary residence; (ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice; and (iii) satisfies all requirements for an owner occupancy eviction under the Rent Stabilization and Eviction for Good Cause Ordinance (BMC 13.76.130(A)(9).*

This new language (shown in italics) is reflected in all new contracts we execute AND is applicable to existing contracts (per HUD notice PIH 2009-52).

Termination of existing tenancy

Foreclosure is not "good cause" for terminating an existing tenancy. The only exception applies to the **new owner** if he or she intends to occupy the unit as his or her primary residence. In such an instance, the family must be given **90-day** notice. In Berkeley, new owners must satisfy several additional requirements before moving in and, in most situations, must pay the tenant \$4,500 in moving expenses. For more information about owner/relative occupancy evictions in Berkeley, call the Rent Stabilization Board (510) 981-7368. If you have any questions about "good cause" or lawful grounds for eviction in Berkeley, you may call the Rent Stabilization Board at (510) 981-7368.

Will BHA continue rental subsidy payments?

BHA will continue making rental payments to the owner of record (provided the family remains in the unit AND the unit meets minimum Housing Quality Standards) and we have advised all Section 8 participants to likewise continue making all their required rental payments to the owner of record.

Transfer of HAP Contract

In accordance with HUD rules, the party gaining ownership through a foreclosure sale (which could be a Bank), becomes subject to the Section 8 Housing Assistance Payment (HAP) Contract, and is required to continue housing the family and maintain the unit in compliance with Housing Quality

Standards (HQS). This allows BHA to continue making rental payments on behalf of the assisted family.

Redirection of Rental Subsidy

If the owner fails to maintain the unit in compliance with minimum HQS, or if the owner cannot be identified, BHA may use the amount of the rental subsidy payment to: (1) pay for basic utility service that is the responsibility of the owner, and/or (2) pay the families' moving costs, including security deposit costs for a new unit. Any remaining balance must be retained for payment to the individual later identified as eligible for receipt of the rental subsidy.