



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Deval L. Patrick, Governor ♦ Timothy P. Murray, Lt. Governor ♦ Aaron Gornstein, Undersecretary

Public Housing Notice: 2013-07

To: Local Housing Authorities
From: Lizbeth Heyer, Associate Director, Division of Public Housing and
Rental Assistance
Subject: **REPLACEMENT OF PHN 2013-02**: "New Vacancy Policy for
State Aided Public Housing Units and Second Round Vacant Unit
Turnover Initiative"
Date: March 21, 2013

NOTICE – THIS PHN REPLACES PHN 2013-02. IT INCLUDES A NEW SECTION "DEADLINE TO APPLY FOR WAIVERS", DELETES THE PREVIOUSLY STATED WAIVER APPLICATION DEADLINE OF THE 15TH OF THE MONTH FOLLOWING QUARTER END, AND CLARIFIES THE FINANCIAL IMPACT OF SUSPENDED OCCUPANCY PAYMENTS.

The Governor's Commission for Public Housing Sustainability and Reform recommended that DHCD "develop and issue a policy in the FY13 Budget Guidelines to discontinue issuance of operating subsidy for units vacant longer than sixty days unless a waiver is granted by DHCD". This policy, which was under development prior to the Commission's Report, has been finalized and is set forth below. It is designed to meet the following objectives:

- Maximize the occupancy of state public housing – one of the few housing resources available to extremely low income households.
- Save money by generating additional rental income: a 1% decrease in the statewide vacancy rate generates about \$1.8M in rental income – funds that can be used to better maintain and preserve the portfolio.

It is important to recognize the vastly disproportionate demand a vacant unit places on the public housing program's limited operating subsidy funds. For example, a c. 705 unit with a family paying the utilities and a rent of \$330 per month might require operating subsidy of about \$63 per month, given that the approved operating budget assumes a c. 705 ANUEL of \$393/PUM. Yet if this unit becomes vacant and the LHA's operating budget is to be held harmless, the subsidy needed for this unit must increase to \$393 per month – *an increase of nearly 624%*.

For this reason DHCD plans to issue waivers only when extended vacancies are fully justified. **More details on the type of conditions that will qualify for vacancy waivers can be found in Attachment A.**

The New Vacancy Policy: DHCD's previous vacancy policy, established in 1997, was complex and was never fully implemented. The revised policy, which is now in effect as of January 1, 2013, has only two simple fees that apply to all LHAs whose units receive state operating subsidy. They are based on the approximate average state-wide public housing rent for all three programs of \$330, or about \$11 per day.¹ Fees are assessed as follows:

- For units vacant between 61 and 90 days without a DHCD-approved waiver, the fee assessed will be one-half the average state-wide daily rental rate, or \$5.50, for each day vacant.
- Units vacant more than 90 days without DHCD-approved waivers will be assessed a daily fee of \$11.00.

The fees assessed under this policy represent the typical financial impact that vacant units have on the state's limited operating subsidy funds. They are easily explained costs that DHCD staff can describe to LHAs and that LHAs can explain to their management and maintenance staffs and commissioners. This clear, two-tier system focuses attention on the importance of timely unit turnovers, and the cost of failing to do so.

In the case of units **without DHCD-approved waivers** that are vacant more than 60 days, the following examples illustrate how this policy will be implemented:

ILLUSTRATION A: UNITS VACANT WITHOUT DHCD-APPROVED WAIVER					
Examples:	Total Days Vacant	61-90 Days Vacant w/o Waiver	90+ Days Vacant w/o Waiver	Vacancy Fee(s) Imposed	Total Fees Assessed
#1	85	25	0	\$5.50	25 days X \$5.50 = \$137.50
#2	140	30		\$5.50	30 days X \$5.50 = \$165.00
			50	\$11.00	50 days X \$11 = \$550

If a unit is granted a waiver, fees will still be assessed when the waiver expires if the unit is not reoccupied. In such cases, the penalty imposed for each day after the waiver expires will be at the \$11.00 rate. That is, a unit is not treated as newly vacant upon expiration of the waiver. For example:

¹ (In 2010 the average family rent was \$329 and the average elderly rent was \$327).

ILLUSTRATION B: UNITS VACANT WITH DHCD-APPROVED WAIVERS						
Exam- ples:	Total Days Vacant	Waiver Days Approved	61-90 Days Vacant past Waiver	90+ Days Vacant past Waiver	Vacancy Fee(s) Imposed	Total Fees Assessed
#1	95	90	0	5	\$11.00	5 days X \$11.00 = \$55
#2	140	120	0	20	\$11.00	20 days X \$11 = \$220

Implementation: This vacancy policy is retroactively effective as of January 1, 2013. All units vacant for more than 60 days beyond that date without a DHCD waiver will be assessed the above-described vacancy fees for each day they remain unoccupied without a waiver. That is:

- Units without a waiver vacated on or before January 1, 2013 will be assessed a fee of \$5.50/day beginning March 1, 2013, and \$11.00/day beginning April 1, 2013.
- Units without a waiver vacated after January 1, 2013 will be assessed a fee of \$5.50/day beginning sixty days from the date of vacancy, and \$11.00/day beginning ninety days from the date of vacancy.

DHCD will calculate and report the total assessed vacancy fees, if any, for the period 1/1/13 – 3/31/13 to each LHA in April, 2013, and similarly at the end of each following fiscal quarter.

At the close-out of the LHA’s fiscal year, the total vacancy fees incurred during that year - if any - will be deducted from the LHA’s earned operating subsidy. In rare cases, if DHCD determines during the fiscal year that an LHA’s accruing fees may have a significant impact on its operating budget, DHCD may require the LHA to revise its operating budget for the balance of the year to adjust for this loss of income, rather than wait for the fiscal year end.

Deadline to Apply for Waivers: As a matter of practice, DHCD will presume every LHA has updated its vacancy ledger and requested all needed waivers by the last day of each month. Once a unit is 60 days vacant, a daily fee will be assessed unless a waiver has been requested before the end of the month and is subsequently approved. **PLEASE NOTE that if such waiver requests are delayed beyond the end of the month in which the unit turned 60 days vacant, the unit will be assessed the daily fee from the date it was 61 days vacant until the waiver is requested, even though the waiver is later approved.** Note that within the Online Vacancy System, LHAs can manage/track requests and approvals in the color coded “Manage Offline/Special Circumstances” section.

ILLUSTRATION C: IMPACT OF DELAYED REQUESTS FOR WAIVERS						
Exam- ples:	Date Unit Vacated	End of 60-day period	Date Waiver Requested	Date Waiver Appr'd	Days Subject to Fee	Rationale
#1	1/15/13	3/16/13	3/31/13	4/15/13	0 days \$0	Requested an approvable waiver before the end of the month in which the unit was 60-days vacant.
#2	1/15/13	3/16/13	4/05/13	4/15/13	20 days (3/16-4/5) \$110 (\$5.50/ day)	Unit exceeded 60 days vacant in March but waiver not requested until April. Fee assessed from date unit was 60 days vacant until waiver was requested.

Full Waivers vs. Suspended Occupancy payments: Certain categories of units, such as those required to be held vacant for planned and funded modernization projects, will receive full waivers, so the LHA's approved operating budget will not be affected by the lost rental income from these units. Other units however, will only receive a Suspended Occupancy payment. In particular, certain units which the LHA expects to be vacant for extended periods of time without a plan for reoccupancy should not require the same level of administrative and maintenance effort as occupied units, and therefore will receive a reduced monthly subsidy of \$110/unit/month. Actual utility costs incurred by the LHA for these units will also be funded. The net reduction in the approved operating budget for these units (the program ANUEL/month minus the \$110 Suspended Occupancy Payment) will be withheld from state operating subsidy at the year-end operating statement settle-up. For example, a c. 200 unit that typically carries an ANUEL of \$359/month in FY13 would only receive \$110/month. Details on the waiver policy are attached to this notice.

Impact on Surplus LHAs: Given the pressing state-wide need for affordable housing and the high cost to taxpayers of emergency housing, it is essential to ensure that all state public housing resources are being utilized to their maximum capacity. Therefore all LHAs, including surplus LHAs (those which do not receive state operating subsidy), must continue to keep their vacancy ledgers current and submit their quarterly vacancy reports, and must request waivers for units vacant more than 60 days. In addition, **budgeted spending above the ANUEL will be frozen at any retained revenue, surplus LHA with 3% or more of its units vacant over 60 days without a DHCD-approved waiver, except for extraordinary maintenance expenditures.** LHAs which meet these criteria will be notified by DHCD in the month following each fiscal year quarter end. The spending freeze will remain in effect until the LHA no longer exceeds the above criteria.

Action Steps: LHAs are strongly encouraged to take the following steps:

1. Assess the condition of any vacant units as soon as possible to determine the staffing and financial resources necessary to reoccupy the unit. If you anticipate

that reoccupancy will take more than 60 days, then you should promptly request a DHCD waiver, using DHCD's web-based vacancy reporting system. The earlier you request a waiver the better, since DHCD will need time to review the request, and if it is not approved you will have more time to plan accordingly.

2. Review your unit turnover process with appropriate staff.
 - a. Make certain your waiting lists are up to date and have at least a year's worth of applicants for each program.
 - b. Review your Marketing Plan for ideas to generate more applicants in locations with low market demand and aggressively implement them.
 - c. Evaluate the time it currently takes your maintenance staff to prepare a unit for reoccupancy, try to identify any common reasons for delay and search for ways to streamline or speed up this process.
 - d. Evaluate how quickly you are able to select and get a new tenant under lease, and look for opportunities to streamline or speed up this process.
3. Some LHAs will need additional funding to accelerate the turnover process. This year's 6.5% increase in the ANUEL provides you with the funding needed to take new actions, such as increasing maintenance hours or hiring contract workers to speed turnovers, increasing marketing efforts for hard-to-rent units, and so on.
4. In addition, as you know, DHCD is also repeating last year's successful effort to reoccupy long-vacant units with the \$2,000,000 Vacant Unit Turnover Initiative. This initiative will provide grants of \$2,500 to \$25,000 for improvements to reoccupy units vacant more than 60 days. Unlike last year, this year's program was open to both family and elderly units. The application period is now closed, and all applications that met the program criteria were fully funded.
5. If you need technical assistance, we encourage you to request it from DHCD. Our Facilities Management Unit can inspect your vacant units, review with you the units' needs and your staff's capacity, and help you craft the most efficient plan to reoccupy them using the resources available to you. Our Housing Management staff can work with you on the process for updating a stale waiting list, or developing a marketing plan for units that are difficult to lease.

This policy will play an important role in ensuring the state public housing portfolio is utilized to the fullest extent possible. DHCD's goal is to work with you to minimize or eliminate the assessment of vacancy fees. This will take a concerted effort, but will result in more seniors and families with a place to live, and a fairer, more effective distribution of the limited state operating funds that so many of you share.

Attachment A

Waiver Type	Criteria	Type and Length of Waiver
<p>1. Modernization project is underway and requires unit to be held vacant.</p>	<p>DHCD Project Manager (PM) and Housing Management Specialist (HMS) must agree that the needed work to reoccupy the unit is:</p> <ul style="list-style-type: none"> • Planned, funded, • likely to start construction on a schedule that requires this unit(s) to remain vacant at this time, and • LHA has complied with applicable relocation laws. 	<p>Full waiver for specific units (not the entire development) until substantial completion of modernization project.</p>
<p>2. Unit is vacant due to casualty or natural disaster covered by state insurance program.</p>	<ul style="list-style-type: none"> • Casualty has been reported to insurance company and DHCD • LHA is assisting with all efforts required to work with insurance company and contractor to reoccupy the unit. 	<p>No waiver (lost rental income is covered by state insurance policy).</p>
<p>3. No market demand for second floor walk-up units without elevator in c. 667 elderly development.</p>	<ul style="list-style-type: none"> • LHA must document that all applicants on the wait list for the unit have been offered the unit and refused, or have verified they have a medically supported need for a first floor unit. • LHA must document consistent efforts to market these units, as outlined in the LHA's Marketing Plan and as required by 760 CMR 5.04, including marketing to neighboring LHAs. • If marketing efforts cannot address this vacancy problem, LHA must identify improvements needed to make the units sufficiently competitive in the local affordable housing market, such as resident services, intercoms, improved common areas, modern appliances, etc. 	<p>Full waiver for 90 days from date of vacancy, with option to renew at 90-day intervals if LHA documents it is aggressively continuing to market the units. After one year may be required to move to Suspended Occupancy payment if feasible reoccupancy plan not in place.</p> <p>Full waiver provides significant monthly funding for LHA to pursue these efforts.</p>
<p>4. No market demand for elderly (including elderly congregate) unit due to negligible or empty wait list</p>	<ul style="list-style-type: none"> • Same criteria as Waiver #3 above • In addition, if unit is in a congregate development that has had a consistent high level of vacancies over years, LHA should work with DHCD and Elder Affairs staff to consider whether it should be re-programmed for a different use. Small 4-person congregates can sometimes serve as group homes, or can be converted to a large family unit or two 1BR senior units. Larger congregates may require more complicated solutions. 	<p>Same waiver as #3 above.</p>

Attachment A

<p>5. Unit is repurposed for a non-residential housing use, typically providing resident services such as computer learning center, daycare, staff for supportive housing program, etc.</p>	<ul style="list-style-type: none"> LHA must document that the unit is currently in use, describe the use, provide the name of the entity using the unit, and state the compensation received for the unit, if any. 	<p>Full waiver, to be verified internally by HMS staff at each LHA Fiscal Year End.</p>
<p>6. Unit needs major modernization or mold abatement; no funding in place.</p>	<ul style="list-style-type: none"> LHA must work with PM and HMS to develop a plan to address the unit's needs, and to secure the unit in the meantime. Plan must be created at a project in the Capital Planning System, regardless of availability of funding. 	<p>Unit receives a Suspended Occupancy payment, to be reviewed annually.</p>
<p>7. Unit needs major work due to tenant damage, and LHA anticipates more than 60 days to reoccupy.</p>	<ul style="list-style-type: none"> LHA provides date of its last annual inspection of the unit, the conditions noted at that time, a description of how they followed up on repairs and, if relevant, collection of damages. LHA must detail the scope, cost and schedule of the proposed work Funding must be in place Facilities Management Staff (FMS), if available, shall inspect the unit and verify the condition and the need for the time requested for repair. 	<p>At discretion of Bureau Director, either: A) Full waiver if DHCD agrees additional time needed and feasible, funded plan is in place. B) No waiver if DHCD determines additional time should not be needed. C) Suspended Occupancy payment if DHCD agrees more time needed but no funded plan in place.</p>
<p>8. LHA can't keep up with recent turnovers, due to sudden rash of vacancies, disability of maintenance staff, or other reason.</p>	<ul style="list-style-type: none"> The LHA must document the specific conditions causing the delay, the work that needs to be done, and its plan and schedule to complete that work. The LHA must demonstrate why it is unable to contract for assistance to complete turnover in timely way. HMS staff must discuss the situation with FMS staff, who may be asked to assist LHA in assessing the best way to augment its turnover capacity. 	<p>Full waivers for these units will not exceed 90 days from date of vacancy, upon approval of DHCD staff. Units vacant 90 to 120 days will receive only a Suspended Occupancy payment. Units vacant more than 120 days will receive no assistance.</p>
<p>9. Unit needs major reconditioning, and LHA is using vacancy as opportunity to undertake comprehensive mod of very outmoded unit.</p>	<ul style="list-style-type: none"> LHA must detail the scope, cost and schedule of the proposed work Funding must be in place FMS staff, if available, shall inspect the unit and verify the condition and the need for the time requested for repair. 	<p>Full waiver at discretion of Bureau Director. However, if no funded plan is in place to reoccupy, then unit will receive only a Suspended Occupancy payment, not a full waiver.</p>