

New Rule, R.1985 d.241, effective May 20, 1985.

See: 17 N.J.R. 505(a), 17 N.J.R. 1258(b).

Amended by R.1986 d.258, effective July 7, 1986.

See: 17 N.J.R. 1620(a), 18 N.J.R. 1373(b).

Recodified from section 2 and substantially amended.

#### **5:80-8.4 Special Multiple Family Unit within Housing Projects located in municipalities affected by casino gaming**

(a) Special Multiple Family Units may be approved and designated by the Agency in accordance with this Section on application by the Housing Sponsor where the Agency determines the municipality wherein the project is located is experiencing housing shortages as a result of the authorization of casino gaming.

(b) A Special Multiple Family Unit is a dwelling unit specifically designed to accommodate two or more families as defined in N.J.A.C. 5:80-8.1(c), and which has been so certified by the Agency after adequately meeting the following minimum criteria:

1. The dwelling unit has separate sleeping areas, each with adequate privacy, for each family; and
2. The dwelling unit has separate full bathrooms, each with adequate privacy, for each family; and
3. The rental of the dwelling unit complies with all relevant State and local occupancy laws.

(c) For purposes of determining income eligibility for admission into a Special Multiple Family Unit, the gross aggregate family income of each family is to be considered separate and apart from the gross aggregate family income of the other family or families occupying the unit. The full rental and carrying charges of the unit are to be used in determining each family's eligibility for admission, notwithstanding each family's planned or actual percentage contribution toward those charges, provided there is a written consent in the lease holding each family jointly and severally liable for these charges.

(d) A single family is deemed to exist among two or more individuals if those individuals have a joint personal economic relationship, other than their mutual interest in renting the same dwelling unit. Joint ownership of personal assets, commingling of personal accounts, economic dependency among the individuals, and/or the joint filing of income tax returns shall be evidence of a joint personal economic relationship.

(e) The rental of units to families must be consistent with Federal housing and tax laws and/or regulations, where such laws or regulations apply to government-financed developments or Agency tax-exempt bond financing of such developments.

(f) The rental of Special Multiple Family Units, irrespective of the income levels of tenants therein, shall not be considered the rental of units to low and moderate income

families for purposes of meeting Federal and State requirements to provide a certain percentage of units for those of low and moderate income, pursuant to N.J.A.C. 5:80-8.3.

New Rule, R.1986 d.258, effective July 7, 1986.

See: 17 N.J.R. 1620(a), 18 N.J.R. 1373(b).

Amended by R.1994 d.300, effective June 20, 1994.

See: 26 N.J.R. 8(a), 26 N.J.R. 2569(a).

#### **5:80-8.5 Recertification of income**

The procedure for calculation and certification of gross aggregate family income in determining a family's eligibility for admission to a housing project as required under this subchapter shall be conducted as set forth in N.J.A.C. 5:80-20.

Amended by R.1986 d.258, effective July 7, 1986.

See: 17 N.J.R. 1620(a), 18 N.J.R. 1373(b).

Recodified from section 3 and substantially amended.

Amended by R.1994 d.300, effective June 20, 1994.

See: 26 N.J.R. 8(a), 26 N.J.R. 2569(a).

### **SUBCHAPTER 9. RENTS**

#### **5:80-9.1 Purpose**

It is the express purpose of the following regulations to promote the statutory functions and obligations of the Agency by ensuring that the rents and/or carrying charges applied in housing projects are sufficient to pay normal operating, maintenance and utility costs; provide an adequate rate of return to individuals or corporations that provide capital to assist in the development of housing projects; provide debt service payments adequate to protect the financial interest of the Agency and its bondholders; provide reserves for repair and replacement; and ensure adequate, safe and sanitary housing for the low and moderate income families that the Agency was created to serve.

Amended by R.1991 d.334, effective July 1, 1991.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).

Specification added.

#### **5:80-9.2 Applicability**

The rules within this subchapter shall apply to all housing projects. In the event the housing project is assisted, directly or indirectly, by the Department of Housing and Urban Development (HUD) or is financed by a loan from the Agency which is insured or guaranteed by the United States, or any agency thereof, the Agency may utilize the rent regulations, requirements or criteria for such project which is prescribed, utilized or required by HUD or such guarantor or insurer. In the event there are any inconsistencies between these rules and the regulations, requirements or criteria of HUD or other United States agency insuring or guaranteeing the Agency loan, the latter shall prevail.

New Rule, R.1991 d.334, effective July 1, 1991.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).

Old section 9.2, "Rent determination" was recodified to 9.3.

### 5:80-9.3 Rent determination

(a) At least once each year, each housing sponsor shall make a determination of the rents and/or carrying charges to be applied in the housing project. Hereinafter, the term "rent" shall be construed to include carrying charges and the term "housing sponsor" shall be construed to include a properly authorized representative of the housing sponsor. An annual rent determination shall be made regardless of whether or not a rent increase is being requested.

(b) The rent determination shall be in the form of a resolution or letter from the sponsor.

Amended by R.1991 d.334, effective July 1, 1991.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).

Text on supporting documentation recodified to 9.4; text on rent determination recodified from 9.2; determination to occur once, at any time, during each year.

#### Case Notes

Proposal for rent increase procedures cited (11 N.J.R. 304); rent varying power under former N.J.A.C. 5:18-1.2; rent control ordinance cannot restrict rent increase approved by State agency for a State financed, supervised and regulated housing project. *Overlook Terrace Management Corp. v. Rent Control Board of West New York*, 71 N.J. 451, 366 A.2d 321 (1976).

### 5:80-9.4 Rent increase application

(a) Housing sponsors desiring to implement a rent increase shall submit a rent increase application to the Agency's Director of Management. The application shall consist of the rent determination and the following supporting documents:

1. Name of sponsor, location of housing project, number of apartments of each type;
2. Date of initial occupancy;
3. For Section 236 developments, a status report on the housing project's implementation of its current energy conservation plan;
4. A narrative statement of the reasons for the rent increase;
5. Most recent certified audit report prepared in accordance with Agency regulations;
6. Summary of income and expenses for the preceding 12 month period prepared on an accrual basis for non-federally subsidized housing projects. For all projects with Federal subsidy, monthly operating reports will be required for the preceding three months;
7. Annual budget on which the requested rent increase is based;
8. Copy of notice to tenants in accordance with 5:80-9.6;

(b) In housing projects where there is a valid Housing Assistance Payments contract, in accordance with which rents are or may be adjusted, the sponsor is not required to submit a rent increase application. Rents will be adjusted in accordance with the contract without resort to the rules within this subchapter, except that the sponsor shall still be obligated to make the rent determination as required by N.J.A.C. 5:80-9.3.

Amended by R.1991 d.334, effective July 1, 1991.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).

Text on notice to tenants and cooperators recodified to 9.6; text on supporting documentation recodified from 9.3 and renamed rent increase application; text from old 9.8, on automatic annual adjustments added at (b).

### 5:80-9.5 Additional rent increases in given fiscal year

The submission of a rent increase application for any given fiscal year shall not preclude any sponsor from making additional or revised rent increase applications in the same fiscal year, provided that they are submitted in accordance with all the procedures set forth in this subchapter.

Repeal and New Rule, R.1991 d.334, effective July 1, 1991.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).

### 5:80-9.6 Notice to tenants and cooperators

(a) Prior to or simultaneous with the submission of the rent increase application to the Agency, each housing sponsor shall provide, in writing, to each tenant and cooperator and conspicuously post at the housing project, a notice, in a form prescribed by the Agency, setting forth the following:

1. The rent determination;
2. A statement that the rent determination is subject to the review and approval of the Agency and, if applicable, subject to the review and approval of HUD;
3. Reasons for the increase;
4. A statement that tenants and cooperators will have 30 days to inspect the rent increase application submitted by the housing sponsor pursuant to N.J.A.C. 5:80-9.4(a); and
5. A statement that written comments on the proposed rents may be submitted to the housing sponsor, managing agent or the Agency's Director of Management, at their current address within 30 days of the rent increase application being available for review.

(b) Upon expiration of the comment period, the housing sponsor shall submit a certification to the Agency, in the form prescribed by the Agency, that it has complied with the requirements of N.J.A.C. 5:80-9.6(a).

(c) If the housing sponsor fails to substantially comply with the notice requirement of (a) above, the Agency shall withhold processing of the rent increase application until there is substantial compliance with such requirements.