

Guide to Non-PHA Public Housing

The Housing Unit at Community Legal Services represents tenants on issues regarding public housing in Philadelphia that is not owned and operated by the Philadelphia Housing Authority.

Most non-PHA public housing is owned and operated by the Philadelphia Asset & Property Management Corporation (PAPMC). PAPMC is a private service affiliate that manages all of PHA's Limited Partnership Low Income Housing Tax Credit (LIHTC) properties. It is a nonprofit, management entity that is separate from PHA. In addition, some non-PHA public housing is operated by Alternatively Managed Entities (AMEs).

The regulations governing non-PHA public housing are similar to those for PHA public housing, but there are some key differences including admission, rent calculation and transfer policy. Information about public housing owned by the Philadelphia Housing Authority is available in the Guide to PHA Public Housing.

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To apply for free legal representation:

Non-PHA public housing tenants can come for **intake** at the Center City office. For intake hours and location click [here](#).



COMMUNITY LEGAL SERVICES
OF PHILADELPHIA

Non-PHA Public Housing: **Admission**

Qualifications for Non-PHA Public Housing

All members of the applicant's household must be U.S. citizens or legal resident aliens and will be screened for criminal activity and drug abuse. Applicants will also be screened for credit history.

Application

The waitlists for some non-PHA public housing developments are open as of Spring 2013.

Philadelphia Asset & Property Management Corporation (PAPMC) owns and operates most non-PHA public housing developments. Each site maintains its own waiting list. Applicants can apply to both PHA and PAPMC properties through PHA's Admissions page [here](#).

Alternatively Managed Entities (AMEs) own and operate other non-PHA public housing developments. These developments manage their own waitlist. Applicants must contact these sites directly for more information about availability.

Contact information for non-PHA public housing developments is available [here](#).

The approximate waitlist length is 7-10 years. The wait may be shorter for applicants who require handicapped accessible housing. Applicants on the waitlist must notify the development of any change of address. If the applicant fails to respond to something sent by the developer, the family will be removed from the waitlist. Applicants should check in at least **once a year** to make sure they are still on the waitlist and check the waitlist status online by clicking [here](#).

Information Needed to Apply

1. Mailing address of head of household
2. Phone number of head of household
3. The following information is required for all household members:
 - Social Security Number
 - Date of Birth
 - Gender
 - Race
 - Ethnicity
 - Gross (pre-tax) Monthly Income

Refusing a non-PHA public housing Unit

By law, public housing operators are only required to offer an admitted family a unit that has the correct number of bedrooms for the family's size (generally 1 bedroom for every two family members) and that is in safe, decent and sanitary condition. If the family does

not accept the unit, their name will be placed at the bottom of the waiting list, unless the rejection is for “good cause.”

Good cause would be if the family could not move at the time of the offer because, for example, a family member is hospitalized. It also includes:

- The unit is not ready for the family to move in;
- The unit is inaccessible for employment, education, job training or child care such that it would cause a family to drop out of school or quit a job;
- The offered unit would place a family member's life, health or safety in jeopardy; or
- The offered unit is not accessible in light of the applicant's handicap or disability.

What if the application is denied?

Non-PHA public housing operators must give applicants written notice of a decision to deny admission.

- The notice must give a reason for the denial.
- The applicant will be given 10 working days to submit a written request for an informal hearing. PHA will then notify the applicant of the date, place and time of the hearing.
- PHA will appoint an impartial review committee to conduct the hearing. No member of the committee can be an employee who was substantially involved in the initial denial or a subordinate of an employee was substantially involved in the initial denial.
- At the hearing, the applicant be allowed to present any relevant evidence or testimony and shall be allowed to contest evidence relied upon by PHA. The applicant has the right, upon request, to review any relevant PHA documents in advance of the hearing.

The committee must make its decision within 14 days of the hearing. The decision must be made in writing and must be based solely on the facts presented at the hearing. The decision must state the basis for the ruling.

Non-PHA Public Housing: **Rent Calculation**

Rent Calculation

Rent for non-PHA public housing is calculated differently than rent for PHA public housing tenants. The formula is mandated by federal law and takes into account the family's income and composition.

For non-PHA public housing tenants, changes in income and family composition must be reported when they occur. This report will require the development to recalculate the tenant's rent. Failure to report any such change would violate the lease and could result in eviction. Also, if the household income has gone down, the rent will not be lowered until the tenant has reported and documented this change.

Income for Rent Calculation

The development cannot use the following income in calculating rent:

1. Earnings of children under 18;
2. Payments for foster care and kinship care;
3. Lump sum payments, like an inheritance or an insurance payment;
4. Reimbursements for the cost of medical care;
5. The income of a live-in aide; (for a definition of a live-in-aide go to Need for someone to assist because of a medical problem)
6. Student financial assistance;
7. Pay of a family member serving in the armed services who is exposed to hostile fire;
8. Funds received under training programs;
9. Sporadic income, such as occasional gifts;
10. Deferred lump sum payments of Social Security and SSI;
11. Earned income tax credits;
12. Property tax rebates.

Calculating Rent

The amount of the rent is based upon a percentage of the family's income. The income of every family member is used in calculating rent. Earned income is counted by gross pay (before taxes are taken out) and not by take-home pay.

To calculate the rent, first take the family's annual gross (pre-tax) income.

Subtract any applicable deductions from the family's gross (pre-tax) annual income to get "adjusted annual income". The possible deductions are as follows:

1. \$480 per year for each dependant family member;
2. \$400 per year each family whose head of household or spouse of the head of household is elderly (age 62 or older) or disabled;
3. To the extent that any of the sum of any of the following exceeds 3% of annual income:

- a. Unreimbursed reasonable attendant or auxiliary apparatus expenses for each disabled family to the extent necessary to enable the family member to be employed;
 - b. Unreimbursed medical expenses of any elderly or disabled family; and
4. Any reasonable child care expenses necessary for a family member to be employed or further his or her education

Multiply the adjusted annual income by 30% (.30). The figure derived by this multiplication is called “annual rent.” To get the monthly rent, divide the annual rent figure by 12.

To the extent that a tenant is directly responsible to pay for any utility bills (not including telephone or cable TV), tenants have a further adjustment to their rent as a result of [utility allowances](#).

Sample Rent Calculation

Timothy Tenant lives in a non-PHA public housing unit with his wife and three children. He is disabled and receives \$700.00 per month from Social Security. He has medical expenses of \$200.00 per month. His wife works 20 hours per week and earns \$450.00 per month. In order to work, his wife must pay child care of \$200.00 per month because Timothy, due to his disability cannot care for the children. They also receive SSI disability of \$500.00 per month for one of their three minor children.

The monthly income for the family is \$1,650.00 (\$700.00 plus \$450.00 plus \$500.00). The annual gross (pre-tax) income for the family is \$19,800.00 (\$1,650.00 times 12).

The family can take the following deductions:

1. \$400.00 because Timothy is disabled and head of household;
2. \$1,440.00 for the three minor children (\$480.00 times 3);
3. \$2,400.00 (\$200 times 12 months) for the child care expenses; and
4. \$1,806.00 in medical expenses. (Annual medical expenses come to \$2,400. Three percent of the family’s annual income is \$594.00. The difference between \$2,400.00 and \$594.00 is \$1,806.00.)

The deductions annual total \$6,046.00. This figure should be subtracted from annual income of \$19,800.00. The resulting figure (\$13,754.00) is called “adjusted annual income” and is the figure that is used to calculate the rent.

To get his annual rent, Timothy should multiply adjusted annual income by 30%. Timothy’s annual rent would be \$4,126.00 (\$13,754.00 times .30).

To get the monthly rent Timothy would divide the annual rent figure by 12. Timothy’s monthly rent would be \$344.00 (\$4,126.00 divided by 12).

Note: If Timothy is responsible to pay his own gas bill, electric bill or water bill, then he would receive a utility allowance, which would further lower the rent.

Note: Where the calculation results in a figure that is not an even dollar amount, it will be rounded up to the nearest whole dollar.

Earned Income Disregard

In order to encourage employment, the development, in calculating rent, must disregard the earned income of a family member where:

1. The family member has earned \$2,575.00 or less in the past twelve months prior to obtaining a job;
2. The family member obtained a job or an increase in pay because of participation in a job training program; or
3. The family member received public assistance benefits of at least \$500.00 within 6 weeks of obtaining a job.

In such cases the development must disregard 100% of the increase in income for the first 12 months and 50% of the increase for the second 12 months.

The disregard must be used within 4 years of the beginning of the job. This means that there can be periods of time when the disregard is interrupted and then resumed when the tenant returns to work. For example, a qualifying tenant might take maternity leave after the tenth month of disregard. Upon returning to work, she will have two months of 100% disregard and 12 months of 50% disregard remaining. However, if the tenant does not use up the full 24 months of the disregard by the 48th month after she first became eligible, the disregard will end.

Sample Earned Income Disregard Calculation

Tina Tenant lives in a non-PHA public housing unit with two minor children and an 18 year old child. Tina's family had been on public assistance for the past year, receiving \$497.00 per month. This had been the family's only source of income. Tina attended a job training program to learn computer skills and upon the completion of the program, she was hired to be a computer programmer at the annual rate of \$30,000.00. The public assistance stopped. At the same time, her 18 year old child graduated from high school and became employed at a job with an annual salary of \$20,000.00.

Tina qualifies for the earned income disregard in three ways (although she only needs one method of qualification):

1. She earned less than \$2,575.00 in the 12 months before she started working;
2. She got the job as a result of her participation in a job training program; and
3. She received more that \$500.00 in public assistance benefits within the 6 months before she got the job.

Tina's 18 year old also qualifies because she earned less that \$2,575.00 in the 12 months before beginning a job.

Tina's monthly rent had been \$113.00. Her monthly income was \$497.00. Her annual income (\$497.00 times 12) had been \$5,964.00. Her adjusted income was \$4,524.00

(Annual income less \$1,440.00 dependent deductions for her three children). Her annual rent was \$1,357.00 (Adjusted income multiplied by .30).

Assuming that there are no further changes in family composition or income. Tina's monthly rent will remain at \$113.00 for the next twelve months because 100% of the increase in income will be disregarded. Even if Tina and/or her oldest child receive further pay increases during those twelve months, the monthly rent will still remain at \$113.00.

In the second twelve months, Tina's monthly rent will increase to \$676.00. The pre-earned income disregard annual income was \$5,964.00 (\$497.00 times 12). Then the annual income went to \$50,000.00 (\$30,000.00 plus \$20,000.00). The increase in income was \$44,036.00 (\$50,000.00 less \$5,964.00). Half of that increase is \$22,018.00. The new annual income is 27,982.00 (\$22,018.00 plus \$5,964.00). Adjusted income would be \$27,022.00 (\$27,982.00 less \$960.00 in deductions for the two minor dependents). Annual rent would be \$8,107.00 (\$27,022.00 multiplied by .30). Monthly rent would be \$676.00 (\$8,107.00 divided by 12).

When Rent Changes Go Into Effect

The development must give the tenant 30 days advance written notice of any rent increase. Rent decreases are effective the month after the tenant reports a drop in family income. Note that, if the tenant fails to promptly report an increase in income, the owner may make the rent increase retroactive to the month following the month in which the increase in income occurred.

Likewise, if a tenant waits several weeks or more to report a decrease in income, the tenant will lose money because the rent decrease will not be put through until the decrease has been reported, and it will not be retroactive.

Non-PHA Public Housing: **Utility Allowances**

Utility Allowances

Where a tenant is responsible (receiving utility bills in their names) to pay for gas, electric or oil utility charges, they must receive a utility allowance. The allowance must be in an amount that would cover the reasonable consumption of an energy-conservative household of modest means. The development sets the allowance off against the monthly rent.

For example, if the monthly rent is \$300.00 and the tenant receives a \$100.00 utility allowance because the tenant pays the gas bill, the tenant would only have to pay \$200.00 in rent. If the monthly rent is so low that the allowance actually exceeds the rent, the tenant will pay \$00.00 monthly rent and the owner will send the tenant a monthly “utility reimbursement” check for the balance of the allowance.

How To Find Out The Amount Of Your Utility Allowance

The amount of the utility allowance is listed on the notice that is provided to tenants after any annual or interim recertification.

Non-PHA Public Housing: **Recertification**

Recertification

The development “recertifies” tenants every year. Tenants receive written notice to attend a meeting with the manager. The tenant will be required to bring proof of the family’s income and composition.

After all of the necessary documentation is obtained, the owner will send out a notice about the amount of the rent and when any increase or decrease will take effect.

The notice will list the source and amount of income, as the developer has calculated it, for each family member. It will list any deductions from income that the owner has allowed. For more information about deductions used in calculating rent, click [here](#).

The notice will also list all of the “authorized” occupants of the unit. If the income or family composition information is not accurate, the tenant should talk to the manager. Any family member living at the unit and not listed on this notice will be deemed as “unauthorized”. It is a violation of the lease to have unauthorized people living in the unit. Any family member who is no longer living in the unit should not be listed on the lease.

Changes in income or family composition between annual recertification

Any changes in family income or composition should be promptly reported to the development manager. Failure to do this is a violation of the lease and could result in eviction. The tenant should promptly report these changes and provide proof. The owner will then perform an “interim recertification.” A decline in income should result in lower rent, but not until the tenant reports it and provides something to document the changes.

For a change in income, the tenant can provide a letter from the employer, pay stubs, notice of changes in welfare, Social Security, SSI, unemployment compensation and other public benefits.

For changes in family composition, tenants should provide something that shows that a family member has moved out or moved in. This might be a lease or a bill at the new address for a family member who has moved out. It might also be a birth certificate for a newborn child.

Non-PHA Public Housing: **Transfers**

Transfers

Non-PHA public housing developments are independently owned and operated. Transfers cannot be completed between two developments. Tenants interested in transferring to a new unit with the development should contact the development manager.

Non-PHA Public Housing: **Repairs**

Repairs

Repairs in non-PHA public housing are handled by the development. Repair needs should be reported to the development manager. The development must pay for repairs arising as a result of reasonable wear and tear. The development must also pay for all repairs, beyond reasonable wear and tear, unless the need for repair was caused by the head of household, a family member, or a guest of the head of household or a family member.

What to Do If the Development Does Not Make the Repair

If the repair is not made within a reasonable time after being reported, a tenant can exercise the right to “repair and deduct”. This allows the tenant to have the repair done by a qualified person and deduct the cost from the rent. It is recommended that any tenant seeking to exercise the right to repair and deduct:

1. Obtain a written estimate from a repairman (on business letterhead) for the cost of the repair;
2. Provide the manager with a copy of the estimate along with a letter explaining that the repair will be done by a deadline date, unless the owner acts first; (keep a copy of the estimate and letter and set the deadline at whatever is reasonable under the circumstances) and
3. Provide the owner with a copy of the bill once the repair has been made.

It is also recommended that tenants take a picture of the needed repair and date the photograph.

Tenants may request a grievance hearing to obtain repairs. A grievance hearing request form is available [here](#).

Tenants may also ask the City of Philadelphia Department of Licenses & Inspections to inspect the unit and issue a citation to the owner.

Tenants may also withhold their rent pursuant to the Rent Withholding Act in Pennsylvania or *Pugh v. Holmes*. For more information about withholding rent, please contact Community Legal Services.

Non-PHA Public Housing: **Grievance Process**

Grievance Process

Every non-PHA public housing development must have a grievance process to allow a tenant to dispute, within a reasonable time, any action or inaction that adversely affects the tenant's rights, duties, welfare or status. This could include, among other things, repair issues, rent calculation disputes, transfer issues and lease terminations.

The tenant should make the grievance hearing request in writing to the manager and keep a copy. The PHA legal department is currently responsible for grievance hearings for all non-PHA public housing developments. A grievance hearing request form is available [here](#).

Tenants' grievance hearing rights

Non-PHA public housing tenants have these rights:

1. To receive adequate notice of any grounds for eviction;
2. To have a representative accompany them at the hearing;
3. The opportunity to review, before the hearing and upon request, any records that relate to the dispute;
4. To dispute any evidence and to cross-examine any witnesses;
5. To present any relevant evidence of their own; and
6. To receive a decision from the arbitrator on the merits of the evidence.

Emergency grievance hearing requests

Where the grievance involves an emergency, PHA must schedule and hold the grievance hearing within 7 working days.

Escrowing rent

Tenants may escrow their rent at the Urban League of Philadelphia if they have filed a grievance hearing request. To open an escrow account, the tenant should contact the Urban League at 215-561-6070. The Urban League will set up an appointment for the tenant to fill out the necessary paper. The Urban League's office is located at 1801 Market Street, 20th Floor. Tenants should not go into the office without an appointment.

Grieving lease termination notices

If the manager sends the tenant a lease termination notice, the tenant has ten days from the date on the notice to request a grievance hearing. If the tenant timely requests a grievance hearing, PHA may not proceed with the eviction process unless and until the grievance arbitrator has ruled that PHA may proceed. If the tenant does not request the grievance hearing within those ten days, PHA may proceed with the eviction process, without waiting for a ruling from the arbitrator.

Note: PHA is not required to provide a grievance hearing in cases where it is seeking to terminate the lease because of alleged drug or criminal activity.

It is not uncommon for the manager to mail the lease termination notice after the date on the notice. A tenant should always save the envelope in which the notice is sent. The postmark date on the notice will establish when the ten day period started to run.

What happens at grievance hearings

The tenant will be sent written notice of the hearing date, location and time. PHA pays for an arbitrator, who listens to all of the evidence and arguments and makes a decision. Usually, the arbitrator does not state the decision at the conclusion of the hearing, but rather goes back to the arbitrator's office and prepares a written decision that is then mailed out to the tenant and the PHA legal department.

Typically, PHA is represented by a lawyer at the hearing. The manager and maintenance personnel may also attend.

How to prepare for the hearing

The tenant should ask PHA to look at any PHA records or documents in advance of the hearing. In particular, the tenant should ask to review any documents that PHA will use against the tenant at the hearing. This will help to prepare any needed response.

The tenant should also prepare to bring any evidence to the hearing. This could include pictures, L & I reports, the grievance hearing request form, rent receipts, lease termination notices, letters, and other others documents that would support the claim.

Tenants may bring witnesses. Tenants may also bring a representative to assist them at the hearing.

After the Grievance Hearing

The arbitrator should send the tenant a hearing order within two weeks of the hearing. If the tenant is not satisfied with the hearing order, he or she can appeal the decision in the Court of Common Pleas.

Non-PHA Public Housing: **Handicap or Accessibility Issues**

Handicap or Accessibility Issues

If a tenant needs someone to live at the unit to assist with the ordinary activities of daily living, such as cooking, cleaning, shopping, washing up, dressing or getting around, the development must allow that tenant to have a "Live-In-Aide." If needed, the development must provide the tenant with a unit with enough bedrooms, if available, to accommodate the Live-In-Aide and/or the tenant's medical equipment. The Live-In-Aide's income will not be used in calculating the amount of the monthly rent. The Live-In-Aide is not allowed to succeed the tenant as head of household should the tenant leave the unit for any reason. The live-in-aide can be a relative or not related.

Non-PHA Public Housing: **Eviction**

Eviction

Tenants in non-PHA public housing can be evicted for nonpayment of rent or breach of a condition of the lease. The PHA legal department represents non-PHA public housing developments in evictions.

Lease termination notice

In almost all cases the development must provide a tenant with a written lease termination notice 30 days in advance of starting the eviction process. If the eviction is based upon threats to health, safety or security, the development may provide 15 days advance notice. The notice must state the reason for the termination and the effective date.

The notice must also state that the tenant is entitled to a grievance hearing and will continue with the eviction process if the tenant requests a grievance hearing within 10 days of the date on the notice. However, the manager is not required to provide a grievance hearing for evictions based upon criminal activity. A grievance hearing request form is available [here](#).

Grounds for lease termination

The grounds for termination of the lease include:

1. Non-payment of rent
2. Serious or repeated violation of the lease;
3. Any criminal activity or drug or alcohol abuse;
4. Violations of federal, state or local law that directly relate to the tenancy; and
5. Other good cause which is defined as a material violation of a provision of the lease or repeated non-material breaches.

Not grounds for lease termination

The non-PHA public housing development must renew the lease, unless there is good cause for termination. The development may not evict a tenant unless the tenant has materially violated a provision of the lease. The development may not evict a tenant because the lease term has expired. The development may not evict a tenant because they do not wish to continue the tenancy or because they do not like the tenant.

Municipal Court Eviction Process

If PHA wins at the grievance hearing or if a hearing is not requested by the tenant, PHA may only evict the tenant by filing in Municipal Court. For information about the court eviction process in Philadelphia, click [here](#).

Non-PHA Public Housing: **Voluntarily Moving Out**

Voluntarily Moving Out of a non-PHA Public Housing Unit

A tenant may terminate the lease at any time by providing 30 days written notice to the development or following the rules outlined in the lease. The tenant should keep a copy of the notice. If a tenant fails to provide this notice, he or she may be responsible for rent for a period of time after moving.

What Happens To Family Members If the Head of Household Moves Out

If the head of household moves out of the unit, other than through eviction, the remaining family members can stay in the unit as long as they were listed on the lease and there is an adult family member (18 years of age or older) to sign a new lease with the owner.

If the head of household knows that other family members will remain, the tenant should inform the manager of this and request that an appropriate family member be made the new head of household.