

Guide to Section 8 Project-Based Housing

There are a number of Section 8 project-based rental units in the City of Philadelphia. These units are subsidized for low and moderate income tenants. The subsidy is funded by the U.S. Department of Housing & Urban Development (HUD) and it is paid either directly by HUD to the owner of the building or through a contract administrator appointed by HUD.

The subsidies for Section 8 project-based units are tied directly to the unit. Unlike the Section 8 Voucher Program, the subsidy does not follow the tenant if he or she voluntarily moves or is evicted from the unit.

Some Section 8 project-based units can only be rented to people who are elderly (usually age 62 or older) or who are disabled. Others can be rented to any family whose income is at or below the program limit.

A list of Section 8 project-based buildings can be viewed [here](#). Applicants should enter search criteria and call as many of the listed buildings as possible. They can ignore the rental price listed. Applicants must apply to each building separately.

The Public Housing Unit at Community Legal Services advises families with issues regarding Section 8 project-based units.

For more information about the Section 8 Project-Based programs:

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To apply for free legal representation:

Section 8 Project-Based tenants can come for **intake** at the Center City office. For intake hours and location, click [here](#).



COMMUNITY LEGAL SERVICES
OF PHILADELPHIA

Section 8 Project-Based: **Admission**

Who Is Eligible

In order to be eligible the applicant must:

1. Be low or moderate-income (which is defined as up to 95% of the median income in the Philadelphia area, depending upon the specific Section 8 project-based program involved);
2. Have the unit as his/her only residence;
3. Be a U.S. citizen or legal resident alien (this is true for all family members);
4. Not have been evicted from a subsidized housing unit within the past three years;
5. Be 18 years of age or older;
6. Have an acceptable credit record;
7. Have no record of criminal convictions or, if so, convictions for only minor crimes; and
8. Have no record of committing domestic violence.

Where To Apply

There is no centralized intake for Section 8 project-based units. Applications for admission must be made to the particular Section 8 project-based building. There is no limit to the number of buildings for which applications can be made.

A list of Section 8 project-based buildings can be viewed [here](#). Applicants should enter search criteria and call as many of the listed buildings as possible. They can ignore the rental price listed. Applicants must apply to each building separately.

Documentation Needed

In order to apply an applicant must furnish:

1. A Social Security card for each family member who is 6 years or older;
2. Proof of the family's income;
3. Proof of age for each family member, and
4. Proof of citizenship or legal resident alien status for each family member.

The applicant must sign authorizations to allow the building administrators to check and/or verify:

1. The criminal records of all adult family members;
2. The applicant's credit history; and
3. Family members' legal resident alien status (where the family member cannot document this).

Application Denial

If an applicant is rejected, the building administrator must send a written notice of this. The notice must state the reason(s) for the rejection and must inform the applicant of the right to have a meeting with the decision maker, if requested within 10 days.

If the ground for rejection is a failure to establish legal resident alien status, the applicant may appeal that determination, within 30 days of receipt of the notice, to the Department of Homeland Security. If that department makes an unfavorable determination, the family may, within 30 days, request a hearing with the owner.

If the ground for rejection is bad credit history, the owner/administrator must tell the applicant what agency provided the negative credit report. The applicant has rights under federal law to challenge false or inaccurate information in the credit report.

Section 8 Project-Based: **Rent Calculation**

Rent for Section 8 project-based units is calculated using a formula mandated by federal law. The formula takes into account the family's income and composition.

For Section 8 project-based units, changes in income and family composition must be reported when they occur. This report will require the owner to recalculate the family's rent. Failure to report any such change would violate the lease and could result in eviction. Also, if the family income has gone down, the rent will not be lowered until the family has reported and documented this change.

Income for Rent Calculation

The owner 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

Then 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 Section 8 project-based 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.

Fair Market Rents

Fair market rents are rents set by HUD beyond which the monthly rent will not increase no matter how high the family's income. If a tenant fails to timely recertify the rent will increase to the fair market rent until the tenant completes the [recertification process](#).

When Rent Changes Go Into Effect

The owner 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 delays in reporting a decrease in income, the rent decrease will not be retroactive.

Section 8 Project-Based: **Utility Allowance**

Utility Allowance

Where a Section 8 project-based tenant is responsible (receiving utility bills in their names) to pay for gas, electric, water 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 owner sets the allowance off against the monthly rent.

For example, if a tenant's monthly rent is \$300 per month and the tenant is responsible for paying the electric bill, he or she might receive a \$100 utility allowance. In this case the tenant's rent would be \$200 per month in rent and tenant would not receive direct payment of the utility allowance.

If the monthly rent is so low that the allowance actually exceeds the rent, the tenant will pay \$0 monthly rent and the owner will send the tenant a monthly "utility reimbursement" check for the balance of the allowance.

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

Section 8 Project-Based: **Recertification**

Recertification

The owner “recertifies” Section 8 project-based tenants every year. Tenants receive written notice to attend a meeting with the manager. The tenant will be required to bring in 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 owner 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 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.

Section 8 Project-Based: **Repairs**

Repairs

Repairs are handled by the building owner. Repair needs should be reported to the building manager. The building owner must pay for repairs arising as a result of reasonable wear and tear. The building owner 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 Owner Does Not Make Repairs

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 (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 also contact upper level management (an off site supervisor of the building manager), the contract administrator or HUD.

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.

Section 8 Project-Based: **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 owner must allow that tenant to have a “Live-In-Aide.”

If needed the owner must provide the tenant with a unit with enough bedrooms to accommodate the Live-In-Aide and/or the tenant’s medical equipment (as soon as a large enough unit becomes available). The Live-In-Aide’s income will not be used in calculating the amount of the monthly rent.

The live-in-aide can be a relative or not related. However, the Live-In-Aide is not allowed to succeed the tenant as head of household should the tenant leave the unit for any reason. For more information about what happens to family members when the head of household voluntarily moves out of a Section 8 project-based unit click [here](#).

Section 8 Project-Based: **Eviction**

Eviction

The owner must follow a legal process in order to evict a tenant. The owner may not evict a tenant without following this process and may not evict a tenant without good cause.

Lease Termination Notice

In almost all cases the owner must provide a tenant with a written lease termination notice 30 days in advance of starting the eviction process. The notice must state the grounds for termination and must inform the tenant that they have a right to discuss the matter with their manager, if a meeting is requested within 10 days.

Grounds for Lease Termination

The grounds for termination of the lease include:

1. Serious or repeated violation of the lease;
2. Any criminal activity or drug or alcohol abuse;
3. Violations of federal, state or local law that directly relate to the tenancy; and
4. 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 owner may not evict a tenant unless the tenant has materially violated a provision of the lease. The owner may not evict a tenant because the lease term has expired. The owner must renew the lease, unless there is good cause for termination. The owner 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

For information about the court eviction process in Philadelphia, click [here](#).

Section 8 Project-Based: **Voluntarily Moving Out**

Voluntarily Moving Out of a Section 8 Project-Based Unit

A tenant may terminate the lease at any time by providing 30 days written notice to the owner. 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.