

10CV1030
DSD/AJB



LEGAL AID SOCIETY OF MINNEAPOLIS
Brian Rochel • • brochel@midmnlegal.org

September 1, 2009

Betty Battle
Manager of Leasing and Occupancy
Minneapolis Public Housing Authority
1001 Washington Ave. N.
Minneapolis, MN 55401

SENT VIA FAX
ORIGINAL SENT US MAIL

Dear Ms. Battle:

The MPHA's July 8, 2009 eligibility denial finds Mr. Stoick ineligible for MPHA public housing based on incidents of criminal history. The criminal incidents are the result of the untreated symptoms of disabilities Mr. Stoick suffers from.

I. Reasonable Accommodation

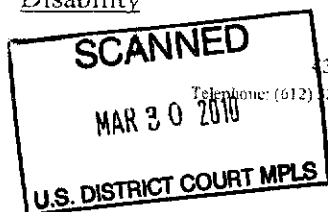
Government housing providers are required to provide reasonable accommodations to tenants and applicants under the Fair Housing Act (FHA), Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. A reasonable accommodation includes a change in a rule or policy that may be necessary to allow a person with a disability the equal opportunity to use and enjoy a dwelling. *See, e.g.,* 42 U.S.C. §3604(f) (2008); Joint Statement of HUD and DOJ at 6 (May 17, 2004) [hereinafter Joint Statement]. The federal definition of disability for purposes of reasonable accommodation includes a person who: 1) has a physical or mental impairment that substantially limits one or more major life activities; 2) has a record of such impairment; or 3) is regarded as having such an impairment. *See, e.g.,* 29 U.S.C. §706(8); 42 U.S.C. §3602(h); 42 U.S.C. §12101; Joint Statement at 3.

The only way a housing provider can deny a reasonable accommodation is by establishing that the accommodation 1) creates an undue financial or administrative burden or 2) fundamentally alters the nature of the program. 24 C.F.R. §8.11 (2008); 24 C.F.R. §8.53 (2008).

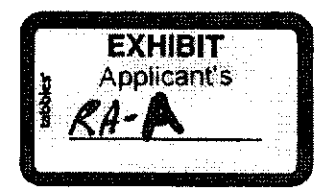
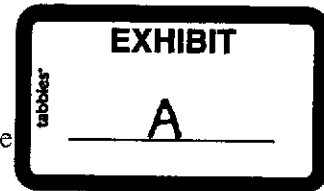
II. Reasonably Accommodate Mr. Stoick by Waiving His Criminal History

Mr. Stoick has disabilities under federal law which can be reasonably accommodated by excluding his criminal record. There is a tight nexus between Mr. Stoick's disability, his proposed accommodation and his ability to show reasonable probability of future favorable conduct.

Disability



30 First Avenue North, Suite 300 Minneapolis, MN 55401-1780
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A United Way Agency



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Alcoholism is a disability under the FHA and the ADA and thus for the purposes of determining a reasonable accommodation. *See, e.g., Dovenmuehler v. St. Cloud Hosp.*, 509 F.3d 435 (8th Cir. 2007); 42 U.S.C. § 12112(a); Joint Statement at 3. Depression is also a disability for the purposes of a reasonable accommodation. *See id.* Mr. Stoick has suffered from many years of untreated major depression which has manifested itself in alcohol dependence. I have enclosed the Reasonable Accommodation Verification Form and accompanying cover letter completed by Dr. James Bunde, Mr. Stoick's psychotherapist for your review. Dr. Bunde goes into his professional diagnosis of Mr. Stoick's disability at length. As such, Mr. Stoick both "has an impairment" and "a record of such impairment."

Accommodation

In order to accommodate Mr. Stoick's disabilities, the MPHA should disregard his criminal history. As Dr. Bunde explains, Mr. Stoick's legal history is a "direct result of many years of untreated major depression, manifesting itself in substance dependence and related difficulties." Mr. Stoick would not have engaged in the activities that lead to his negative criminal history if it were not for his past depression and alcoholism.

Now, Mr. Stoick has undergone and continues to undergo successful and effective treatment for his disabilities. Please consult Dr. Bunde's analysis for further detail. In addition, Mr. Stoick is participating in the Veterans' Upward Bound Program for vocational and educational training, is actively seeking employment and intends to enroll in school in the future.

Mr. Stoick has been sober for nearly a year. He undergoes regular medical and counseling treatment at Specialized Treatment Services (STS) in addition to his sessions with Dr. Bunde. At STS he is also subject to random UA testing. The STS program is based on phases: as Mr. Stoick successfully completes phases of the program he moves up to a higher phase. He is about to successfully reach phase 4 of the program. Therefore, Mr. Stoick clearly evinces reasonable probability of future favorable conduct.

Thus, in order for Mr. Stoick to have an "equal opportunity to use and enjoy" public housing through the MPHA, it is necessary for the MPHA to modify its policy regarding criminal background checks. If the MPHA refuses to do so, it will subject Mr. Stoick to discrimination based solely on the past manifestations of his disabilities. Moreover, granting Mr. Stoick this accommodation will not place an undue financial or administrative burden on the MPHA nor will it fundamentally alter the nature of the MPHA's public housing program.

Nexus

Mr. Stoick cannot enjoy the benefits of public housing because of MPHA's policy of rejecting applicants based on criminal history. But Mr. Stoick's criminal history is predicated on his disabilities and it does not even suggest that Mr. Stoick presents a threat or danger to the public housing community. Moreover, Mr. Stoick has demonstrated that he can overcome the negative manifestations of his disabilities with proper treatment. Further, Mr. Stoick is successfully undergoing that treatment and will continue to do so in the future. As such, waiving Mr. Stoick's criminal history is clearly related to his disabilities, his likely future favorable conduct and his "equal opportunity to use and enjoy" public housing through the MPHA.

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If you have any questions or need more information after reviewing this letter and the enclosures please feel free to contact Dorinda Wider or me. If you do not, please grant Mr. Stoick's reasonable accommodation request promptly and continue processing his application.

Sincerely,

Brian Rochel
Law Clerk

BR:br
Enc.
cc: Carol Kubic, Esq.

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**HENNEPIN
FACULTY
ASSOCIATES**
Physicians of Hennepin County Medical Center

600 Fred L. Shapiro Building
914 South Eighth Street
Minneapolis, Minnesota • 55404
(612) 347-5000

8/26/09

RE: John Stoick

To whom it may concern:

I have met with John Stoick for individual psychotherapy sessions since our initial evaluation on 11/21/07. He has been prompt with regard to appointments, and has been consistently engaged, cooperative, and motivated during our sessions. He has behaved courteously and appropriately towards clinic staff, and has been respectful during each of our encounters.

It is my opinion that Mr. Stoick's legal history is a direct result of many years of untreated major depression, manifesting itself in substance dependence and related difficulties. Recently, through various forms of treatment, Mr. Stoick has been able to deal directly with substance-related and mental health issues. He has been forthcoming regarding his history, taken responsibility for problematic decisions, acknowledged the role of substances in his difficulties, and committed to pursue sustained sobriety. Currently, he reports sobriety from drugs and alcohol, and I have no reason to doubt this assertion. His psychological stability has improved markedly, with good correspondence between behavior and report, and he has experienced no substance-related cravings in recent months.

Mr. Stoick's prior legal difficulties occurred in the context of untreated depressive relapse and consequent substance use. Given his current involvement with mental health treatment, his increased psychological stability, and his commitment to (and evidence of) sobriety, it is unlikely that Mr. Stoick's behavior will be of future concern. I feel confident that he will abide by the rules and regulations established by the MPHA, should he be selected for residency. Further, the acquisition of stable housing would be invaluable in Mr. Stoick's efforts to maintain sobriety and psychological health, as well as obtain gainful employment and engage in healthy social interactions.

If you have any further questions, please do not hesitate to contact me at 612-873-2989.

Sincerely,



James Bunde, PhD
Psychology Fellow
HFA Psychiatry Clinic

An Equal Opportunity Employer



MINNEAPOLIS PUBLIC HOUSING AUTHORITY

HEALTH PROVIDER'S VERIFICATION OF A NEED FOR A REASONABLE ACCOMMODATION IN HOUSING BECAUSE OF A DISABILITY

Recipient or Applicant's Name _____ Phone _____

Address _____

This is my authorization to release the information requested below.

Signature _____

Dear: _____

The person named above is a MPHA program recipient or applicant. The person is requesting a reasonable accommodation because of a disability. Please complete this form.

1. The person has a disability which is defined as a physical or mental impairment that substantially limits one or more major life activity and has an objective record of having the disability or is being regarded as having the disability. A disability does not include alcohol or illegal drug dependence.

Yes No

2. The disability is permanent. *Time course cannot be accurately predicted w/ mental illness.*
Yes No

3. If the disability is temporary please explain: *N/A*

4. Explain the objective record of the disability: *The patient has a long history of serious mental illness, as well as substance-related incidents and chemical dependency treatments.*

08/21/2009

16:00

MID MN LEGAL ASSISTANCE → 99044270

NO. 456

P06

5. The following reasonable accommodation to the housing unit or common area or an exception to MPHA's rules, policies or procedures is necessary as a direct result of the person's disability. Please explain:

a. The accommodation: That the patient's past criminal record be discounted as a basis for denial.

b. Why the person needs the accommodation: The patient would greatly benefit from stable housing, and his criminal history is being held against him.

c. How the accommodation is related to the disability: The patient's criminal history is directly related to his disability (mental illness + substance dependence), and would be discounted on those grounds.

d. How the accommodation will assist the person to be lease or program compliant: The patient's current stability and treatment involvement suggest a change in functioning consistent with program compliance.

Agency Name HEA Adult Psychiatry Clinic Telephone 612-347-5000

Address 914 S. 8th St. Minneapolis, MN 55404 Date 8/26/09

Signature [Signature] Title Psychology Fellow

If you have any questions, please call Betty Battle at 612-342-1411

Please return this form to: Minneapolis Public Housing Authority
1001 Washington Ave N
Minneapolis, Minnesota 55401

Revised 05/09/02

CASE NOTES

INTAKE CHECKLIST:

- Label
- Clearinghouse
- Tresspass
- Applicant List-Alpha
- Cards
- S.S. # ID
- Alien Registration - If needed
- Computer

ET CHECKLIST

- Full application signed
- Hud Release (Current)
- MN DCA
- Other DCA
- Credit History
- Henn. Crim
- Henn. UD
- Declaration of Elig
- Recheck Tresspass List
- LL Ver.
- SP LL
- References
- MSP
- Minnegasco
- Confirmation
- Income
- Home Visit

Date 12/26/08 NAME John Stick

12/26/08 Not in computer system, no card

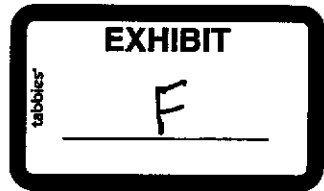
10/29/08 Client says he has been living at 1000 Currier since 4/2004. Says after 9/11 he lost his mobile home because he didn't have a job to pay the lot and had to forfeit his home. Brought a summary of crimes he had been arrested for and says he has been working with a psychiatrist and taking medication because he has learned that he was doing all the drinking because he was depressed and the drinking led to the offenses. Needs to submit 3 reference letters, SS card when he gets it and come in for zero income interview. EJ

2-23-09 Client came in, FP and fill out zero income form. Stated no income now, will receive GA ~~when~~ in May of 2009 (PK)

4/6/09 We consulted applicant's criminal history with Mary Z. in regards to offense on 4/25/2005 - Clouded Exposure / Lewdness or Provoke Another to Expose in Presence of Minor Under 16. Mary Z. called Casey and based on MMA's screening guidelines it would be 4 years after sentence complete. (PK)

4/23/09 Sent Criminal letter to applicant. Submit for denial for criminal history. (PK)

6/26/09 Denial approved - MJ



PART I**DEFINITIONS**

1. **ADJUSTED INCOME:** Annual Income less the following deductions, determined in accordance with HUD regulations (24 CFR §5.611):
 - A. \$480 for each Dependent; (Refer to definition #13)
 - B. \$400 for any Elderly or Disabled; (Refer to definition #24 & #15)
 - C. The sum of the following, to the extent the sum exceeds three percent of annual income:
 - 1) Unreimbursed medical expenses of any elderly family or disabled family;
 - 2) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member of the family who is a person with disabilities) to be employed, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care of auxiliary apparatus; and
 - D. Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.
2. **ALLOWANCES:** Amounts added to or deducted from the household's annual income in determining adjusted annual income.
3. **ANNUAL INCOME (24 CFR 5.609):**
 - A. Annual income means all amounts monetary or not, which:
 - 1) Go to, or on behalf of the family head or spouse (even if temporarily absent) or any other family member; or
 - 2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
 - 3) Which are not specifically excluded in paragraph (c) of this section
 - 4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

If it is not feasible to anticipate a level of income over a 12 month period (e.g. seasonal or cyclic income), or the MPHA believes that past income is the best available indicator of expected future income, the MPHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

B. Annual income includes but is not limited to:

- 1) The full amount, before any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.;
- 2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided by the Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family.
- 3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness will not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph B 2 of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets in excess of \$5,000, Annual Income will include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD.
- 4) The full amount, before deductions, received from social security, annuities, periodic payments from insurance policies, retirement funds, pensions, periodic benefits or disability or death, and other similar types of period receipts, including a lump-sum payment for the delayed start of a periodic payment (except as provided in paragraph C. 13 below).
- 5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph C. 3 below)
- 6) Welfare assistance payments:
 - a) Any welfare benefits received by any family member
 - b) Imputed welfare income

- 1) For current residents (not applicants) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction due to a sanction for welfare fraud or non-compliance with economic self-sufficiency requirements, as specified in notice to the Minneapolis Public Housing Authority by the welfare agency) plus the total amount of other annual income.
- 2) At the request of the Minneapolis Public Housing Authority, the welfare agency will inform the Minneapolis Public Housing Authority in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the Minneapolis Public Housing Authority of any subsequent changes in the term or amount of such specified welfare benefit reduction. The Minneapolis Public Housing Authority will use this information to determine the amount of imputed welfare income for a family.
- 3) A family's annual income includes imputed welfare income in family annual income, as determined at an interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the Minneapolis Public Housing Authority by the welfare agency).
- 4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.
- 6) The Minneapolis Public Housing Authority will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.
- 7) If a resident is not satisfied that the Minneapolis Public Housing Authority has calculated the amount of imputed welfare income in accordance with HUD requirements, and if the Minneapolis Public Housing Authority denies the family's request to modify such amount, then the Minneapolis Public Housing Authority shall give the resident written notice of such denial, with a brief explanation of the basis for the Minneapolis Public Housing Authority's determination of the amount of imputed welfare income. The Minneapolis Public Housing Authority's notice shall also state that if the resident does not agree with the determination, the resident may grieve the decision in accordance with our grievance policy. The resident is not required to pay an escrow deposit for the portion of

the resident's rent attributable to the imputed welfare income in order to obtain a grievance hearing.

8) Relations with welfare agencies.

a) The Minneapolis Public Housing Authority will ask welfare agencies to inform it of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the Minneapolis Public Housing Authority written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction if the reduction is due to welfare fraud or non-compliance with self-sufficiency requirements.

b) The Minneapolis Public Housing Authority is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the housing authority. However, the Minneapolis Public Housing Authority is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

c) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The Minneapolis Public Housing Authority shall rely on the welfare agency notice to the Minneapolis Public Housing Authority of the welfare agency's determination of a specified welfare benefits reduction.

9) Periodic and determinable allowances (income), such as alimony, child support payments received, and regular contributions or gifts including amounts received from any person not residing in the dwelling.

- 10) All regular pay, special payments and allowances (compensation) of a member of the Armed Forces (except as provided in paragraph C. 6 below).
- C. Annual Income does not include the following:
- 1) Income from employment of children (including foster children) under the age of 18 years.
 - 2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
 - 3) Lump-sum additions to Family assets, such as inheritances, insurance payments, (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses (except as provided in B. 4 and B. 5 above)
 - 4) Amounts received by the Family that are specifically for or in reimbursement of, the cost of medical expenses for any family member.
 - 5) Income of a Live-in Aide; see definition
 - 6) The full amount of student financial assistance paid directly to the student or the educational institution.
 - 7) The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire.
 - 8) Amounts received:
 - a) under training programs funded by HUD.
 - b) by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
 - c) by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program.
 - d) under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA on a part-time basis that enhances the quality of life in

the development. Such services may include but are not limited to, fire patrol, hall monitoring, lawn maintenance and resident initiatives coordination and serving as a member of the PHA's governing board. No resident may receive more than one such stipend at the same time.

- e) as incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period for which the family member actively participates in the program.
- 9) Temporary (see definition), non-recurring or sporadic income including sporadic gifts.
- 10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- 11) Earned income in excess of \$480 annually for each full-time student 18 years old or older (excluding the head of household and spouse).
- 12) Adoption assistance payments in excess of \$480 per adopted child;
- 13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
- 15) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- 16) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937. Excluded amounts include:
- a) The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)).
- b) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044 (g), 5058).
Examples of programs under this Act include but are not limited to:
—the Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program;

- National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program, and Special Volunteer Programs;
 - Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE).
- c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a)).
- d) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (24 U.S.C. 459(e)).
- e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)).
- f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (24 U.S.C. 1552(b)).
- g) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-2504); and
- h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission of the Court of Claims (24 U.S.C. 1407-1408), or from funds held in trust for an Indian Tribe by the Secretary of Interior (24 U.S.C. 117); and
- i) Amounts of scholarships funded under Title VI of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student Assistance programs, that are made available to cover the cost of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of a student at an educational institution (that are used to cover the cost of attendance at an educational institution). (20 U.S.C. 1067uu)
- Examples of Title IV programs include but are not limited to: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College Work Study, and Byrd Scholarships.
- j) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 (F)).
- Examples of programs under this act include but are not limited to: Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association

National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.

- k) Payments received on or after January 1, 1987 from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation.
 - l) Payments received under the Maine Indian Claim Settlement Act of 1980.
 - m) The value of any child care provided or arranged (or the amount received as payment for such care incurred for such care) under the Child Care and Development Block Grant Act of 1009 {42 U.S.C.32 (j)}
 - n) Any earned income tax credit.
 - o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservations (Pub. L. 95-433)
 - p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637 (d))
 - q) Any allowance paid under provisions of 38 U.S.C. 1805 to a child suffering spina bifida who is the child of a Vietnam veteran.
 - r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Crimes Victim Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602).
 - s) Allowances, earnings and payments to individuals participating in the programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).
- 17) The incremental earnings due to employment during a 24-month period following the date of the initial hire, for families:
- a) Whose income increases at a result of employment of a family member who was previously unemployed for one or more years;
 - b) Whose income increases during participation of a family member in any economic self-sufficiency of other job training program;

- c) Who are or were, within the last 6 months, assisted under a State TANF or Welfare to Work program.

4. **APPLICANT**: The Applicant head of household and all the family members listed on the application
5. **ASSETS**: See NET FAMILY ASSETS.
6. **ASSISTANCE APPLICANT**: A family or individual that seeks admission to the public housing program.
7. **CHILD CARE EXPENSES**: Amounts anticipated being paid by Family for the care of children less than 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to be gainfully employed, to further his or her education, to actively seek employment and only to the extent such amounts are not reimbursed. The amount deducted will reflect reasonable charges for child care, and, in the case of child care necessary to permit employment, the amount deducted will not exceed the amount of income received from such employment of the lowest paid adult family member.
8. **CEILING RENT**: MPHA does not have ceiling rents. See Part VII RENT COMPUTATION AND SECURITY DEPOSIT
9. **CITIZEN**: Citizen or National of the United States.
10. **CO-HEAD OF HOUSEHOLD**: An individual in the household who is equally responsible for the lease with the Head of Household, who signs the lease, and whose income and resources are available to meet the family's needs.
11. **COMMUNITY SERVICE**: The performance of voluntary work or duties in the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, and/or increase the self-responsibility of the resident within the community in which he/she resides.
12. **COVERED FAMILIES**: Families who receive welfare assistance or other public assistance benefits from a State or other public agency under a program for which Federal, State, or local laws requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.
13. **DATING VIOLENCE**: See VAWA Policy.
14. **DEPENDENT**: A member of the Tenant Family household (excluding foster children) other than the Family head or co-head, who is less than 18 years of age or is a Disabled Person, or is a full-time Student.
15. **DISABILITY ASSISTANCE EXPENSES**: Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled

family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

16. **DISABLED FAMILY**: A family whose head, spouse or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.
17. **DISABLED PERSON**: A person who:
 - A. Has a disability as defined in 42 U.S.C. 423
 - B. Is determined, pursuant to HUD regulations to have a physical, mental, or emotional impairment that:
 - Is expected to be of long-continued and indefinite duration;
 - Substantially impedes his or her ability to live independently; and
 - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - C. Has a developmental disability as defined in 42 U.S.C. 6001.

For the purposes of qualifying for Public Housing, does not include a person whose disability is based solely on drug or alcohol dependence.
18. **DISALLOWANCE**: Exclusion from annual income.
19. **DISPLACED FAMILY**: Refer to definition of involuntary displacement
20. **DOMESTIC VIOLENCE**: See VAWA Policy.
21. **DRUG FREE PUBLIC HOUSING ZONE**: Any public housing development administered by MPHA plus the area within 300 feet of the property's boundary, or one city block whichever distance is greater which shall be free of selling, possessing, or possessing with intent to sell any illegal controlled substance. Maximum sentencing penalties will be imposed by the courts for unlawful controlled substance crimes committed within this defined zone. MPHA has a "zero tolerance" for drug activity; the lease of any resident who possesses any amount of a controlled substance in MPHA property will be terminated. All residents are responsible for the conduct of the members of their household and/or guests. The lease of a resident will also be terminated if a guest or household member is found to possess any amount of a controlled substance on MPHA property. (Section 1. Minnesota Statutes 1990, section 152.01 sub. 19.)
22. **DRUG RELATED CRIMINAL ACTIVITY**: The illegal manufacture sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance, regardless of arrest or conviction as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

23. **ECONOMIC SELF-SUFFICIENCY PROGRAM**: Any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including substance abuse or mental health treatment program), or other work activities.
24. **EFFECTIVE DATE**: The "effective" date of an examination or reexamination refers to (i) in the case of an examination for admission, the effective date of initial occupancy, and (ii) in the case of reexamination of an existing tenant, the effective date of the redetermination Total Tenant Payment (i.e., effective date of rent change).
25. **ELDERLY DESIGNATED BUILDING**: Is a highrise building approved by HUD and designated by MPHA as an elderly designated building.
26. **ELDERLY FAMILY**: A family whose head or spouse/co-head or sole member is a person who is at least 62 years old. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 year of age living with one or more live-in aides.
27. **ELDERLY PERSON**: A person who is at least 62 years of age.
28. **ELIGIBLE NONCITIZEN**:
- A. A noncitizen lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (INA), as an immigrant, as defined by section 101(a)(15) of the INA (8 U.S.C. 1101(a)(20) and 1101(a)(15), respectively) (immigrants). (This category includes a noncitizen admitted under section 210 or 210A of the INA (8 U.S.C. 1160 or 1161), special agricultural worker), who has been granted lawful temporary resident status);
 - B. A noncitizen who entered the United States before January 1, 1972, or such later date as enacted by law, and has continuously maintained residence in the United States since then, and who is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General under section 249 of the INA (8 U.S.C. 1259);
 - C. A noncitizen who is lawfully present in the United States pursuant to an admission under section 207 of the INA (8 U.S.C. 1157) (refugee status); pursuant to the granting of asylum (which has not been terminated) under section 208 of the INA (8 U.S.C. 1158) (asylum status); or as a result of being granted conditional entry under section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic national calamity;

- D. A noncitizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) (parole status);
- E. A noncitizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation under section 243(h) of the INA (8 U.S.C. 1253(h)) (threat to life or freedom); or
- F. A noncitizen lawfully admitted for temporary or permanent residence under section 245A of the INA (8 U.S.C. 1255a) (amnesty granted under INA 245A).
29. **EMANCIPATED MINOR:** Person who is under 18 years of age and who is married, an active duty member of the U.S. armed forces or emancipated by court order.
30. **ESTABLISHED INCOME RANGE:** Between 85% and 115% (inclusive) of the MPHA-wide average tenant income for developments covered under the rule to Deconcentrate Poverty 24 CFR part 903, or below 30% of the area median. See Part V.
31. **EXCESS MEDICAL EXPENSES:** Any medical expenses incurred by elderly families or families with dependents only in excess of 3% of Annual Income which are not reimbursable from any other source.
32. **EXTREMELY LOW INCOME FAMILY:** A family whose income does not exceed 30 percent of area median as determined by HUD, with adjustments for family size. HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.
33. **FAMILY:** Person or persons with or without children.
34. **FAMILY HOUSING UNIT:** All units that are two bedroom or larger, except highrise two bedroom units. Family units are for adults with dependents. For households who no longer have a dependent, the remaining adults and residual family members will transfer to highrise units. If the household does not transfer in a timely manner, MPHA will terminate the lease.
35. **FAMILY SELF SUFFICIENCY (FSS) PROGRAM:** A self-sufficiency program established by the Minneapolis Public Housing Authority (MPHA) that offers incentives to promote economic self-sufficiency among motivated FSS public housing low rent residents via successful completion of their FSS Contract of Participation.
36. **FIXED INCOME:** Occurs when a tenant's only source of income is from social security retirement, social security disability, social security dependent benefits, Minnesota Supplemental Income (MSA) and/or other fixed income approved by MPHA.
37. **FLAT RENT:** A rent amount the family may choose to pay in lieu of having their rent determined under the income based method. The flat rent is established by MPHA based on the market value of the unit as determined by MPHA. Families selecting the flat rent option must have their income

evaluated every three years, rather than annually. See Flat Rents. Flat rents are not reduced by the utility allowance. Flat rents are offered at the annual reexamination of income and eligibility. Families who do not properly report their income will not be allowed to take advantage of flat rents.

38. **FORMAL REPAYMENT AGREEMENT**: An agreement signed between an applicant or tenant and MPHA in which the applicant or tenant agrees to pay in monthly installments, a sum owed to MPHA. The agreement shall not exceed 12 months without the written approval of the Director of Asset Operations Management
39. **FOSTER CHILD OR CHILDREN**: A child or children, raised by someone not their own mother or father, and for whom the tenant or applicant receives compensation. Legal documentation of placement with the MPHA family will be required.
40. **FULL-TIME STUDENT**: A person who is attending school or vocational training on a full-time basis. A Full-time Student who is the Head of Household may not live in other housing including a dorm room.
41. **GENERAL OCCUPANCY BUILDING**: Is a highrise building that is not an Elderly Designated Building .
42. **HANDICAPPED ASSISTANCE EXPENSES**: Refer to Definition for Disability Assistance Expenses.
43. **HANDICAPPED PERSON**: Refer to definition of Disabled Person.
44. **HATE CRIME**: The actual or threatened physical violence or intimidation that is directed against a person or his/her property and that is based on the person's race, color, religion, sex, national origin, disability, sexual orientation, or familial status.
45. **HEAD OF HOUSEHOLD**: The head of household is the person who assumes legal responsibility for the household, signs the lease and is listed on the application as Head. Each lease has only one Head of Household. The Head of Household must reside in the unit on a full time basis and use the unit as their sole and principle residence. The Household must vacate the unit if the Head of household is absent longer than 60 days.
46. **HIGHRISE BUILDING**: Is a Non- Family Housing building that has four or more stories.
47. **HUD**: The United States Department of Housing and Urban Development.
48. **HUD'S STATEWIDE CLEARINGHOUSE LIST**: A list of residents/participants who have left a PHA in the state of Minnesota owing money. HUD publishes the list on a semiannual basis.
49. **IMPUTED ASSET INCOME**: Value of an asset times the HUD passbook rate where the value of such assets is greater than \$5,000. If the imputed income is more than the actual income from assets, the imputed amount is used as income from assets in determining rent.

50. **IMPUTED WELFARE INCOME**: The amount of annual income not actually received by a family, as a result of a welfare benefit reduction for the family's welfare fraud or failure to comply with economic self-sufficiency requirements that is nonetheless included in the family's annual income for the purposes of determining the rent.
51. **INCOME BASED RENT**: Rent amount based on the family's income, as determined by the MPHA, and MPHA's rent policies.
52. **INCOME TARGETING**: At least 40 percent of admissions to the public housing program in each fiscal year must be extremely low income families.
53. **INDIVIDUAL EXEMPT FROM COMMUNITY SERVICE**:
- a. A Family members who is 62 years of age or older;
 - b. A family member who is blind or disabled, as defined by Section 216 (i)(1) or 1614 of the Social Security Act (42 U.S.C. 416 (i) (1); 1382c) and who certifies that because of this disability is unable to comply with requirements,;
 - c. A Family member who is the primary care giver for someone who is blind or disabled as set forth in paragraph 2 above.
 - d. A family member who is engaged in work activity.
 - e. A family member who is exempt from having to engage in a work activity in a State program funded under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any welfare program of the State, including State-administered welfare-to-work program; A family member who is receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act or under any welfare program of the State, including a State-administered welfare-to-work program, and is in compliance with that program.

54. **INVOLUNTARY DISPLACEMENT**:

An Applicant is or will be involuntarily displaced if the Applicant has vacated, or will have to vacate his/her housing unit as a result of one or more of the following actions:

- A. Displacement by Disaster: An applicant's unit is uninhabitable because of a disaster, such as a fire or flood.
- B. Government Action: Activity carried on by an agency of the United States or by any State or local government body or agency in connection with code enforcement or a public improvement or development program.
- C. Housing Owner's Action: Action by a housing owner forces the applicant to vacate its unit. An applicant does not qualify as involuntarily displaced because action by a housing owner forces

the applicant to vacate its unit unless: 1) the applicant cannot control or prevent the owner's action; 2) occurs although the applicant met all imposed conditions of occupancy; and 3) the action taken by the owner is other than a rent increase.

The reasons for a tenant's involuntary displacement by owner action includes, but is not limited to the following: 1) conversion of the unit to non-rental/residential use; 2) closing of the unit for rehab or any other reason; 3) notice by owner to vacate a unit because the owner wants the unit for personal or family use or occupancy; 4) sale of the unit, in which an applicant resides under an agreement which requires the unit to be vacant when possession is transferred; 5) any other legally authorized act that results or will result in withdrawal of the unit from the rental market.

Such reasons do not include the vacating of a unit by a tenant as a result of actions taken by the owner because the tenant refuses: 1) to comply with HUD program policies and procedures for the occupancy and under-occupied or overcrowded units; or 2) to accept a transfer to another housing unit in accordance with a court decree or in accordance with policies and procedures under a HUD-approved desegregation plan.

- D. When a Victim has vacated or will have to vacate their housing unit because of domestic violence, dating domestic violence or stalking against the Victim.
- E. Displacement to avoid reprisals: An applicant family is involuntarily displaced if: 1) family members provided information on criminal activities to a law enforcement agency and 2) based on a threat assessment, the law enforcement agency recommends rehousing the family to avoid or minimize a risk of violence against family members as a reprisal for providing such information. MPHA will establish appropriate safeguards to conceal the identity of families requiring protection against such reprisals.
- F. Displacement by hate crimes (refer to definition): An applicant family is involuntarily displaced if: 1) one or more members of the applicant's family have been the victim of one or more hate crimes; and 2) the applicant has vacated a housing unit because of such crime, or the fear associated with such crime has destroyed the applicant's peaceful enjoyment of the unit.

MPHA must determine that the hate crime involved occurred recently or is of a continuing nature.

- G. Displacement by inaccessibility of unit: An applicant family is involuntarily displaced if: 1) a member of the family has a mobility or other impairment that makes the person unable to use critical elements of the unit; and 2) the owner is not legally obligated to make changes to the unit that would make critical elements accessible to the disabled person as a reasonable accommodation

H. Displacement because of HUD disposition of multifamily project includes: A displacement because of disposition of a multifamily rental housing project by HUD under Section 203 of the Housing and Community Development Amendments of 1978.

55. **LIVE-IN AIDE**: A person who resides with an Near Elderly, Elderly or Disabled person or persons and who MPHA determines to be essential to the care and well-being of the tenant(s), who can prove they have the skills necessary for the care of the Near elderly, Elderly or Disabled tenant and the sole purpose for living with the tenant family is to provide the necessary full time supportive services;

- not obligated for support of the person(s); and
- would not be living in the unit except to provide necessary full time supportive services.

The Live-in Aide will not be added to the lease, but must comply with the terms of the lease. The Live-in Aide has no residual tenancy rights to the unit; the Live-in Aide must vacate the unit with the Tenant Family. The Live-in Aide will vacate the unit when the Tenant Family no longer qualifies for a Live-in Aide. A Live-in Aide will be screened as any other applicant with the exception of economic criteria. The Live-in Aide must pass the screening. A Live-in Aide will be accommodated in the Tenant Families current unit. A health care provider must verify the need for a Live-in Aide. This verification will include the reason for the need, hours care is needed and the duration of the need. The Tenant Family must provide medical confirmation of the continued need for a Live-in Aide at the request of Management.

56. **LANDLORD**: This term means either the owner of the property or his/her representative or the managing agency or his/her representative, as shall be designated by the owner.

57. **LEASE COMPLIANT**: (The definition of Lease Compliant does not apply to participation in a resident organization or committee.)

To be considered Lease Compliant a tenant must:

- a) timely pay rent and all other charges;
- b) not be on a retroactive repayment agreement or owe retroactive rent due to the fault of the tenant;
- c) have no repeated or serious violations of the lease; and
- d) have no valid eviction actions filed against them for any reason.

58. **LOW INCOME FAMILY**: A Family whose Annual Income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families. HUD may establish income limits higher or lower than the 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs of unusually high or low family incomes.

59. **MEMBERS OF THE HOUSEHOLD**: Persons listed in the lease or subsequent lease addendum.

60. **MEDICAL EXPENSES**: Those total medical expenses, including medical insurance premiums that are anticipated during the period for which Annual Income is computed, and that are not covered by

insurance. Medical expenses are allowed only for elderly, disabled, and handicapped households. The amount allowable as a deduction is the amount that exceeds 3 percent of Annual Income.

61. **MILITARY SERVICE OF THE UNITED STATES**: Service in the Army, Navy, Air Force, Marine Corps, Coast Guard, and since July 29, 1945, the commissioned corps of the U.S. Public Health Service.
62. **MINNESOTA FAMILY INVESTMENT PROGRAM (MFIP)**: Minnesota welfare reform program previously known as AFDC, refer to definition.
63. **MIXED POPULATION DEVELOPMENT**: Is defined in 24 C.F.R. § 960.102 (b), as amended or other applicable regulation. MPHA does not have any mixed population developments.
64. **MONTHLY ADJUSTED INCOME**: Monthly Adjusted Income is one-twelfth of Adjusted Annual Income.
65. **MONTHLY INCOME**: Monthly Income is one-twelfth of Annual Income.
66. **MPHA**: The Minneapolis Public Housing Authority, which operates in and for the City of Minneapolis. It is authorized to engage in or assist in the development or operation of housing for low-income families.
67. **NATIONAL**: A person who owes permanent allegiance to the United States as a result of birth in a United States territory or possession.
68. **NEAR ELDERLY FAMILY**: A family whose head or spouse/co-head (or sole member) is at least 50 years of age and below the age of 62.
69. **NET FAMILY ASSETS**: Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD home ownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. (In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the Family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining Annual Income. The value of a burial trust will not be included in Net Family Assets. In determining Net Family Assets, MPHA shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

70. **NONCITIZEN**: A person who is neither a citizen nor national of the United States.
71. **OCCUPANCY STANDARDS**: The standards that MPHA has established for determining the appropriate number of bedrooms needed to house families of different sizes or compositions.
72. **PARTICIPANT**: A family or individual that is assisted by the MPHA.
73. **PREVIOUSLY UNEMPLOYED**: This includes a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.
74. **PROFIT MAKING ACTIVITIES IN A DWELLING UNIT**: With prior written MPHA approval, profit-making activities may be allowed provided that no additional space or parking is required for this purpose. No modifications can be made to the unit for such activities and the resident must provide proper insurance.
75. **PUBLIC ASSISTANCE**: Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly by Federal, State, or local governments.
76. **RENT**: Includes monthly, retroactive rent and any rent owing on a repayment agreement.
77. **RETROACTIVE RENT**: When a tenant is charged less rent than what should have been charged, due either to an intentional or unintentional misrepresentation, mistake, or non-disclosure or because a reexamination of income is not completed by the effective date. Retroactive rent is rent. Retroactive rent is due and collectable 30 days after MPHA gives written notice to the Tenant of the amount of Retroactive Rent owed.
78. **SELF-SUFFICIENCY INCENTIVES**:
- A. Qualified family. A family residing in public housing:
- 1) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;
 - 2) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
 - 3) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and

services as one-time payments, wage subsidies and transportation assistance— provided that the total amount over a six-month period is at least \$500.

- a) Disallowance of increase in annual income.
 - i). Initial twelve-month exclusion. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income (as defined in §5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.
 - ii). Second twelve-month exclusion and phase-in. During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.
 - iii) Maximum four years disallowance. The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48-month period starting from the initial exclusion under paragraph (b)(1) of this section.

- 79. **SERVICE-PERSONNEL**: Persons in military or naval forces of the United States who served therein during World War II, or who have had active service therein on and after June 27, 1950, and prior to the final cessation of hostilities as proclaimed by proper federal authority.
- 80. **SINGLE PERSON**: A person living alone or intending to live alone and who does not qualify as an Elderly Family, Disabled Family or as the remaining member of a tenant family.
- 81. **SINGLE ROOM OCCUPANCY (SRO)**: A unit which contains no sanitary facilities or food preparation facilities or which contains one but not both types of facilities and which is suitable for occupancy by a single individual.
- 82. **SPECIFIED WELFARE BENEFIT REDUCTION**:
 - A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

- B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
- 1) at the expiration of a lifetime or other time limit on the payment of welfare benefits;
 - 2) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
 - 3) because a family member has not complied with other welfare agency requirements.

83. **STALKING**: See the VAWA Policy.

84. **SUBSTANDARD HOUSING**

- A. A housing unit is substandard if it:
- 1) Is dilapidated;
 - 2) Does not have operable indoor plumbing;
 - 3) Does not have a useable, flush toilet inside the unit for the exclusive use of the family;
 - 4) Does not have a useable bathtub or shower inside the unit for the exclusive use of the family;
 - 5) Does not have electricity or has unsafe or inadequate electrical service;
 - 6) Does not have a safe or adequate source of heat;
 - 7) Should, but does not, have a kitchen, or;
 - 8) Has been declared unfit for human habitation by an agency or unit of government.
- B. A housing unit is dilapidated if: 1) the unit does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family; or 2) the unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair, or rebuilding. The defects may involve original construction or may result from continued neglect or lack of repair or from serious damage to the structure.
- C. Status of SRO housing: In determining whether an individual living in single room occupancy (SRO) housing qualifies for Preference, SRO housing is not considered substandard solely because the unit does not contain sanitary or food preparation facilities.
- D. A homeless family includes any person or family that: 1) lacks a fixed, regular and adequate nighttime residence; and also 2) has a primary nighttime residence that is: a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing where the duration of stay is less than 6 months); b) an institution providing temporary residence for persons

intended to be institutionalized, or; c) a public or private place not designed for or intended for use as sleeping accommodations for human beings.

A "homeless family" does not include individuals imprisoned or detained by an Act of the Congress or a State law.

85. **TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)**: The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.
86. **TEMPORARY EARNED INCOME**: Income from a Temporary Employment Agency or of limited term employment will be annualized.
87. **TEMPORARY CHANGE OF INCOME**: A change in income that will not be longer than 30 days duration and is nonrecurring.
88. **TENANT FAMILY**: Head(s) of household and the Members of Household (see definition)
89. **TENANT RENT**: The amount the Family pays monthly to MPHA. Rent also includes retroactive rent. If MPHA supplies all utilities (except telephone or cable TV) and other essential housing services are supplied by MPHA, Tenant Rent equals Total Tenant Payment. If MPHA does not supply all utilities (except telephone or cable TV) and other essential housing service, and these costs are not included in the rent amount, Tenant Rent equals Total Tenant Payment less the Utility Allowance.
90. **TOTAL TENANT PAYMENT**: The monthly amount calculated under 24 CFR §5.613. Total Tenant Payment (TTP) does not include charges for excess utility consumption or other miscellaneous charges as defined in Part VIII of this policy, the TTP includes retroactive rent.
91. **UTILITY ALLOWANCE**: If the cost of utilities (except telephone and cable TV) for a public housing unit is not included in the Tenant Rent, but is the responsibility of the Family occupying the unit, an amount equal to the estimate made or approved by MPHA or HUD, of the monthly cost of a reasonable consumption of such utilities and other services for the unit by energy conscious household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment, is deducted from the Total Tenant Payment.
92. **UTILITY REIMBURSEMENT**: The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit. The Utility Reimbursement is paid by MPHA to the tenant, or to the utility company.
93. **VERY LOW INCOME FAMILY**: A family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for an area of unusually high or low family incomes.

94. **VETERAN**: A citizen of the United States or a resident alien: 1) who separated under honorable conditions from any branch of the armed forces of the United States after serving active duty for 181 consecutive days or by reason of disability incurred while serving on active duty; 2) who has met the minimum active duty requirement as defined by 38 C.F.R. § 3.12; or 3) who has active military service certified under section 401, Public Law 95-202. The United States secretary of defense must certify the active military service and issue a discharge under honorable conditions. Veteran does not include veteran's spouse or co-head if the veteran is not a current member of the household.
95. **VIOLENCE AGAINST WOMEN ACT (VAWA)**: A federal law enacted on January 5, 2006 which amended the federal housing statutes to protect victims of dating violence, domestic violence and stalking. Under the law, a incident or incidents of actual or threatened domestic violence, dating violence, or stalking is not a serious or repeated violation of the lease by the victim and is not good cause for denying to a victim admission to a program, terminating Section 8 assistance or occupancy rights, or evicting a tenant. The MPHA's VAWA Policy is attached as Appendix J. to this Statement of Policies.
96. **WELFARE ASSISTANCE**: Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments. (See Public Assistance.)



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January 26, 2010

Ms. Elizabeth Kragness, Esq.
Staff Attorney
Minneapolis Public Housing Authority
1001 Washington Ave N
Minneapolis, MN 55401

Sent Via Fax and US Mail

RE: John Stoick Reasonable Accommodation Denial Hearing

Dear Ms. Kragness:

I would like to clarify the scope of issues that will be decided in Mr. John Stoick's hearing scheduled for February 4, 2010.

Mr. Stoick's application for public housing was originally denied on July 8, 2009. Mr. Stoick subsequently requested a Reasonable Accommodation (RA) on September 1, 2009, asking that his criminal history be waived. The MPHA denied Mr. Stoick's request for an RA on September 24, 2009. Mr. Stoick requested an informal hearing contesting the MPHA's denial of his RA pursuant to the MPHA's September 24 letter and ACOP Part XXI(16.0).

The MPHA's RA Policy in its ACOP affords Mr. Stoick a grievance hearing under ACOP Part XII. ACOP Part XXI(16) (2009-10). The need for clarity is that the Appeal Hearing notice sent to Mr. Stoick on January 19, 2010, does not mention anything about RA. Of course, the grievance procedures governing applicants who are denied an RA under ACOP Part XXI are different from the Informal Hearing procedures set out in ACOP Part II(D). Thus, different rules of apply for the different hearings.

It would affront Mr. Stoick's due process rights to an objective determination on the merits to have the same panel decide both his RA request and his denial of admission to public housing. If Mr. Stoick prevails on his RA appeal, then he should be declared eligible and offered housing based on date and time of application and relevant preference points. If there were any bases for denial of



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eligibility after his RA is granted, which we do not believe there will be, then Mr. Stoick has a right to be heard by a panel that has not been made privy to the MPHA's negative characterization of his criminal history, since it would not be relevant and would be unfairly prejudicial.

If Mr. Stoick's RA appeal is denied, then he is entitled to an Informal Hearing under ACOP Part II. Combining Mr. Stoick's hearing appealing his RA denial of September 24 with his hearing appealing his eligibility denial of July 8 violates the MPHA's ACOP, is unfairly prejudicial to Mr. Stoick and is confusing to the panel. If the panel decides against Mr. Stoick on his RA appeal, they can still find that his criminal history does not warrant exclusion from public housing. However, the panel will likely not be able to separate these two issues clearly and Mr. Stoick is entitled to separate hearings for each issue.

I respectfully ask for your written response by the end of business on this Thursday, January 28, 2010, since the hearing is coming up very soon.

Thank you for your prompt attention. Please contact me if you have any questions. Please note that I am only in the office on Tuesdays and Thursdays. If I am unavailable please contact Dorinda Wider.

Sincerely,

Brian Rochel
Law Clerk for Dorinda Wider

BR:br
cc: Dorinda Wider

0907-0272217--585597.doc



January 19, 2010

John Stoick
c/o 3220 Poe Road
BrooklynCenter, MN 55429

Dear Applicant:

Recently, the Leasing & Occupancy office determined that you are ineligible for admission to Low Rent Public Housing. You have requested an Appeal Hearing. It has been scheduled for the following date and time:

DATE: January 27, 2010

TIME: Please check-in at the front by 9:30 a.m. and tell them you are scheduled for a hearing. If you are not here by 9:30 a.m. your case will not be rescheduled. We usually have several hearings scheduled and will hear them on a first come first serve basis.

PLACE: 1001 Washington Avenue North, Minneapolis MN 55401

NOTE: All Adults listed on the application must attend the hearing.

If you fail to attend the hearing without advising us at least 24 hours in advance, it may be determined that you have waived your right to a hearing concerning your denial of admission to Low Rent Public Housing.

You have the right to be represented by an attorney or other representative at your own expense. We ask that you let MPHA know in advance whether or not you will have representative at the hearing. You may review all relevant documents, records and regulations of the Agency prior to your hearing date.

If you wish to reschedule your hearing, review your file or if you will need an interpreter for your hearing, please contact me at (612) 342-1390.

REMEMBER, WHEN YOU ARRIVE CHECK IN AT THE RECEPTION DESK AND HAVE A SEAT. SOMEONE WILL ESCORT YOU TO THE HEARING ROOM.

Sincerely,

MINNEAPOLIS PUBLIC HOUSING AUTHORITY

Diane Henry
Leasing Clerk

cc: Dorinda Wider and Brian Rochel at Legal Aid



PART XII**TENANT GRIEVANCE PROCEDURES**

1. Purpose and Applicability

- A. MPHA has established this grievance procedure in compliance with federal regulations. The purpose of the procedures is to permit tenants an opportunity for a hearing if the tenant disputes an MPHA action or failure to act under the tenant's lease with MPHA or federal regulations.
- B. This grievance procedure applies to individual grievances as defined in Section D (1) below, including complaints of a tenant and eviction for cause. The grievance procedure shall not apply to lease terminations for:
- 1) non-payment of rent except to dispute the amount of the rent charged);
 - 2) any activity that may threaten the health or safety of the premises, Tenant Family, other residents, neighbors, employees of MPHA or others;
 - 3) any drug-related criminal activity on or off the premises;
 - 4) any violent criminal activity on or off the premises; or
 - 5) any felony conviction.
- C. Also the grievance procedure does not apply to:
- 1) disputes between tenants that do not involve MPHA;
 - 2) class grievances;
 - 3) grievances intended to initiate or negotiate policy changes;
 - 4) requests for an adult lease add-on who was denied admission to public housing;
 - 5) tenants who are denied a lease add-on because of occupancy standards or because MPHA has place a moratorium upon placing highrise tenants on the family unit transfer waiting list;



- 6) tenants who had an informal hearing based upon a lease termination and after the informal requested a reasonable accommodation or VAWA protection to avoid the lease termination;
- 7) a person who did not return a complete and accurate VAWA certification form within the 14 or 17 day period as stated in the VAWA Policy; or
- 8) the denial of a reasonable accommodation or VAWA request when MPHA has terminated the lease for any reason under 1 B above.

2. HUD Requirements

- A. MPHA will adopt a grievance procedure affording each tenant an opportunity for a hearing on a grievance as described above.
- B. MPHA shall provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the grievance procedure and will provide an opportunity to present written comments. MPHA will consider the comments before adopting any grievance procedure changes.
- C. MPHA shall furnish a copy of the grievance procedure to each tenant and to resident organizations.
- D. Definitions

For purposes of this grievance procedure, the following definitions apply:

- 1) "Grievance" shall mean any dispute not listed in Sections 1B or 1C which a tenant may have with respect to MPHA's action or failure to act in accordance with the individual tenant's lease or MPHA policies, which violate the individual's, rights, duties, welfare or status. Adverse actions may include, but are not limited to: lease terminations for cause, transfers for family composition, and imposition of charges for maintenance, repairs, and excess consumption of utilities.
- 2) "Complainant" shall mean any tenant whose grievance is presented to MPHA.
- 3) "Element of due process" shall mean an eviction action or a termination of tenancy in a state court in which the following procedural safeguards are required:
 - a) Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction.
 - b) Right of the tenant to be represented by counsel.

- c) Opportunity for the tenant to refute the evidence presented by MPHA including the right to confront and cross-examine all witnesses and to present any affirmative legal or equitable defense, which the tenant may have.
 - d) A decision on the merits.
- 4) "Due Process Determination" shall mean a determination by HUD that state or local law requires that a tenant be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit. HUD has issued a due process determination for the State of Minnesota. MPHA may evict tenants through the judicial eviction procedures and is not required to provide the opportunity for the grievance procedure for lease terminations listed in Section 1B or 1C.
 - 5) "Hearing Panel" shall mean a panel selected in accordance with this Grievance Procedure to hear grievances and render a decision with respect thereto. The Hearing Panel shall be three people except that the Hearing Panel shall be an individual in all grievances contesting the amount of any rent, court filing or service fees or any other charges owing on the tenant's account.
 - 6) "Tenant" shall mean the person(s) who reside(s) in the unit and is listed as Head(s) of Household in the MPHA lease or in a subsequent Lease Addendum.
 - 7) "Resident Organization" includes a resident management corporation.

E. Informal Settlement Conference

- 1) The purpose of the informal conference is for the complainant and MPHA to:
 - a) attempt to resolve grievances without a formal hearing; and
 - b) evaluate the grievance and advise the complainant whether the the grievance procedure applies.

2) Procedure

- a) The complainant or the complainant's representative, either orally or in writing, shall present to MPHA Area Management Office within 10 working days after the initiation of the action or failure to act, the basis of the grievance. Although the grievance may be simply stated, it must specify:
 - the reasons for the grievance;
 - the action requested; and
 - the name, unit address and telephone number (if available) of complainant.

Within 10 working days after MPHA's receipt of the complainant's grievance, MPHA will contact the complainant to arrange a date for an informal settlement conference.

- b) Because this is an informal settlement conference, the only persons permitted to be present at this conference are the complainant, complainant's representative or counsel, appropriate members of the complainant's family, and MPHA Management staff and counsel.
- c) Within 10 working days after the settlement conference, MPHA will give or mail a summary of the proceedings to the complainant and put a copy in the complainant's tenant file. The summary will include:
 - names and titles of participants;
 - date of the conference;
 - reasons for the conference;
 - proposed disposition of the grievance; and
 - specific steps by which a complainant may request a formal hearing, if appropriate.

The complainant may submit to MPHA a written response to the settlement conference summary, which shall be included in the complainant's tenant file.

- d) If MPHA offers a formal hearing and the complainant disagrees with MPHA's settlement decision, the complainant shall follow the procedures below to request a formal hearing. If the complainant is satisfied with the decision, MPHA and the complainant will abide by the decision.
 - e) If a Tenant signs a Settlement Agreement as a result of the Informal Settlement Hearing process for a Lease Termination and does not comply with the terms of the Settlement Agreement, MPHA will continue the Lease Termination process at the Formal Hearing Stage, unless the Settlement Agreement provides otherwise.
- 3) A resident may not request an informal settlement conference for a dispute involving the amount of rent (monthly, retro-active, minimum, etc). The resident may request a formal hearing as provided in section F.

F. Formal Hearing

The purpose of the formal hearing is to allow the complainant an opportunity to request a review of the informal settlement conference decision. The complainant has a right to be represented by counsel or another person chosen as a representative. When the hearing involves an eviction or termination of tenancy, the complainant is entitled to the basic elements of due process as defined in Section (C.3). The formal hearing will be heard before a Hearing Panel.

1) Procedures for Obtaining a Formal Hearing

- a) The complainant requested and attended an informal settlement conference.
- b) The complainant disagrees with the decision of the informal settlement conference, and submits a written request for a formal hearing to MPHA Area Management Office within 10 working days after MPHA gives or mails to the complainant the informal settlement conference decision. The written request must state:
 - the reason(s) for the grievance;
 - the action or relief sought;
 - the name, address and telephone number (if available) of the complainant; and
 - the name, address and telephone number of complainant's representative, if any.
- c) All formal grievances must follow this procedure. However, if the complainant can show good cause why the informal grievance procedure was not followed, this requirement may be waived by the Hearing Panel.

2) Disputes Over Amount of Rent Due

If the grievance hearing involves the amount of rent or other charges which MPHA claims is due, such amount must be placed in escrow (see below), before a hearing will be scheduled. If the complainant does not pay the disputed rent or charges in escrow, the grievance procedure shall be terminated.

3) Escrow Deposit:

- a) Before a hearing is scheduled involving an amount of rent or other charges, which MPHA claims is due, the complainant shall pay to MPHA all rent and charges due and payable as of the month preceding the month in which the act or failure to act took place.
- b) Thereafter, the complainant shall deposit the monthly rent into an escrow account each month when normally due until the grievance is resolved by decision of the Hearing Panel.
- c) These requirements for payment of rent may be waived by MPHA in extenuating circumstances, and will be waived to appeal the denial of a minimum rent hardship.
- d) Unless so waived, failure to make the aforementioned payments shall result in termination of the grievance procedure.

- e) Failure to make such payments shall not constitute a waiver of any right the complainant may have to contest MPHA's disposition of the grievance in any appropriate judicial proceeding.

4) Scheduling the Hearing

- a) After the complainant complies with the above procedures, MPHA will mail or deliver written notice to the complainant within 10 days from the receipt of the request for the hearing.
- b) The written notice will state the time, date, place and the Fair Hearing and Due Process, listed below, to the complainant and the Property Manager.

5) Failure to Request a Formal Hearing

If the complainant does not request a formal hearing within 10 working days after the informal settlement conference, she/he waives the right to a formal hearing. MPHA's informal settlement conference shall be final, unless the complainant timely seeks judicial review.

6) Selection of Hearing Panel

The Hearing Panel will be impartial persons appointed by MPHA. The Hearing Panel member shall not be a person or a subordinate of such a person who made or approved MPHA's action under review. If a Hearing Panel member knows or has information about the subject of the hearing he/she must excuse their self from the hearing and the hearing will either continue with two Officers or be promptly rescheduled.

7) Fair Hearing and Due Process

The complainant is afforded a fair hearing including the following elements of due process.

- a. The opportunity to examine before the grievance hearing any MPHA documents, including records and regulations that are relevant to the hearing. The tenant may to copy any such document at the tenant's expense. The right to be represented by counsel or other person chosen as the tenant's representative, and to have such person make statements on the tenant's behalf. Any such counsel or representative will be at the tenant's expense.
- b. The right to a private hearing unless the complainant requests a public hearing.
- c. The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by MPHA or property management, and to confront and cross-examine all witnesses upon whose testimony or information MPHA relies.
- d. A decision based only on the facts presented at the hearing.

8) Procedures Governing the Hearing

- a. The hearing panel may render a decision without proceeding with the hearing if the hearing panel determines that the issue has been previously decided in another proceeding.
- b. If the complainant or MPHA fails to appear at a scheduled hearing, the hearing panel may postpone the hearing up to five business days or may decide that either party has waived the right to a hearing. Both the complainant and MPHA shall be notified of the hearing panel's determination. At the hearing, the complainant must first show an entitlement to the relief sought. Thereafter MPHA must sustain the burden of justifying MPHA's action or failure to act.
- c. The hearing shall be conducted informally by the hearing panel. Oral or documentary evidence relevant to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing panel shall require MPHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the hearing panel's directions may result in exclusion from the proceedings in a decision adverse to the interest of the disorderly party or the granting or denial of the relief sought.
- d. The complainant or MPHA may arrange, in advance and at the party's expense, for a transcript of the hearing.
- e. MPHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include a qualified sign language interpreter, reader, accessible location or attendants

9) Decision of the Hearing Panel

- a) The panel shall prepare a written decision, together with the reasons therefore, within 10 working days after the hearing. A copy of the decision shall be sent to the complainant and MPHA. MPHA shall retain a copy of the decision in the tenant file and in a master file.
- b) The decision of the hearing panel shall be binding on MPHA which shall take actions, or refrain from actions, reasonable and necessary to carry out the decision unless MPHA's Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination that:
 - The grievance does not concern MPHA's action or failure to act in accordance with the complainant's lease or MPHA duties. Grievances must concern a threat to the complainant's rights, duties, welfare or status within the scope of these regulations.

- The decision of the hearing officer or panel is contrary to applicable Federal, State or local law, HUD regulations ordinance or requirement of the annual contributions contract between HUD and MPHA
- A decision by the hearing officer, panel, or Board of Commissioners in favor of MPHA, or which denies the relief request by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, any rights the complainant or MPHA may have to judicial review in any judicial proceedings.

G. Administrative Expense

MPHA shall provide the required space, secretarial services and funds for administrative expenses for the Hearing Officer or Hearing Panel. This may include reimbursement for the reasonable expenses of Hearing Officers.

H. Review and Amendment of Policies

The Grievance Procedure may be reviewed and changed by the Commissioners of MPHA after tenants and tenant organizations have had at least 30 days to review and provide written comments.

I. Request for a Reasonable Accommodation

A resident with a disability may ask for a reasonable accommodation to help the resident to follow the lease or to participate in and benefit from housing, aid, program or service. With or without a reasonable accommodation, the resident shall follow the lease and shall be eligible for the program.

- 1) A resident or resident's representative shall give a request for a reasonable accommodation to their property manager and not to a hearing panel. If a resident makes a request for a reasonable accommodation the hearing will be rescheduled to give MPHA an opportunity to respond to the request.
- 2) MPHA will notify the resident of the decision regarding the request for the reasonable accommodation. Within 30 days after a property manager receives a written request for a reasonable accommodation MPHA will inform the resident of a denial, approval or the need for ongoing investigation.
- 3) If the resident does not like MPHA's decision, the resident or resident's representative shall ask for an informal hearing within 10 working days after MPHA gave notice of the denial.
- 4) The informal hearing will be conducted as set out in Section E of this Part.

- 5) If the resident does not like the decision, the resident may request a formal hearing. The resident must request a formal hearing in writing within 10 working days from the time MPHA gives or mails the decision to the resident. The formal hearing will be conducted as set out in section E of this Part.

- 6) In a lease termination, if a tenant requests a reasonable accommodation after receiving a decision of a Hearing Panel, the tenant may not request the grievance procedure to contest the denial of the reasonable accommodation or the decision of the hearing panel.

PART II**REQUIREMENTS FOR ADMISSION**

1. MPHA will maintain records regarding each applicant that indicate: the date and time of receipt of the application; MPHA's determination as to eligibility or non-eligibility of the applicant; the appropriate unit size, the preference rating, if any, and the date, location, identification, and circumstances of each vacancy offered and accepted or rejected.
2. **ELIGIBILITY:** It is MPHA's policy to admit only eligible and qualified applicants.
 - A. "Eligibility" is a defined term under the Housing Act of 1937. Being eligible, however, is not entitlement to housing. In addition, every applicant must meet MPHA's Tenant Selection Criteria, established in accordance with 24 C.F.R. Part 960.

An eligible Applicant Family shall:

 - 1) qualify as a "Family" as defined in Part I; the Head of Household must be at least 18 years of age or be an emancipated minor.
 - 2) have an Annual Income as defined in part I at or below program guidelines listed in Appendix A;
 - 3) provide a Social Security card for each applicant family member who is at least six years of age or the head of household must sign a document certifying that the family member has no number;
 - 4) be a U.S. Citizen or National or have eligible noncitizen status as defined in Part I and provide a completed and signed 214 Status for each applicant family member;
 - B. MPHA requires;
 - 1) that each applicant family member who is 18 years or older sign consent authorization documents and release of information forms; and
 - 2) that each applicant family member who is 18 years or older must provide a State or U.S. government issued valid picture ID that includes the date of birth, or another acceptable picture ID with a birth certificate.
3. **TENANT SELECTION CRITERIA:** MPHA will screen all applicants in accordance with 24 C.F.R. Part 960) and sound management practices.



- A. MPHA will consider information reasonably related to assessing the conduct of the applicant and all family members on the application, in present and prior housing. The conduct shall indicate a reasonable probability that the applicant and family members will comply with MPHA's lease, with or without a reasonable accommodation.
- B. Prior to admission, MPHA will verify and document whether the applicant family is not likely to:
- 1) Interfere with other residents, neighbors or MPHA staff in such a manner which may adversely affect their peaceful enjoyment of the premises, or their health, safety, or welfare;
 - 2) Adversely affect the physical environment or financial stability of the project;
 - 3) Violate the terms and conditions of the lease; or
 - 4) Require services resulting in an alteration to the fundamental nature of MPHA's program.
- C. MPHA may immediately deny admission to the Applicant Family for any of the conduct listed below. If a hearing panel or officer overturns MPHA's decision to deny admission and MPHA has not completed the selection process, MPHA will continue the selection process. MPHA will base a subsequent denial of admission solely upon any new unfavorable information.
- 1) Failure to pay rightful financial obligations, especially rent and utilities;
 - 2) Disturbance of neighbors, destruction of property, living habits, or housekeeping habits at prior residences, that may adversely affect the health, safety or welfare of other tenants, neighbors or MPHA staff;
 - 3) Involvement in any criminal activity, other activity or a history of criminal acts including drug-related criminal activity, which MPHA determines may adversely affect the health, safety, or welfare of other tenants, neighbors, or MPHA staff, contractors or subcontractors;
 - 4) Illegal use or pattern of use of a drug or controlled substance and abuse or pattern of abuse of alcohol which MPHA determines may interfere with the health, safety or the right to peaceful enjoyment of the premises by other residents, neighbors or MPHA staff;
 - 5) Current or past involvement in drug-related criminal activity. MPHA is a Drug Free Zone. Refer to definition in Part I;
 - 6) Fraud in connection with any Federal housing assistance program;

- 7) Eviction or termination from housing or termination from residential programs for the last five years from the date that MPHA began to process the application and throughout the application process. MPHA may consider the date and circumstances;
- 8) Eviction from assisted housing for any drug related criminal activity for the last five years from the date that MPHA began to process the application and throughout the processing period.
- 9) Any material misrepresentation relevant to the application process discovered at any time prior to signing the lease;
- 10) Failure to cooperate with MPHA in completing the application process;
- 11) Failure to provide written, accurate, current, objective and verifiable information regarding income, assets, family composition, childcare, alcohol abuse, illegal drug use or criminal activity;
- 12) Failure to supply requested documents or fingerprints as required by the application process;
- 13) Any conviction for manufacturing or producing methamphetamine (speed); is cause for a lifetime denial;
- 14) Lifetime registration under a state sex offender registration program shall be cause for a lifetime denial;
- 15) Threatening, abusive or violent conduct towards an MPHA employee, applicant or resident;
- 16) Currently or previously being trespassed from any MPHA property for the last three years;
- 17) Inability to have gas and/or electric service connected in the name of the applicant head of household for MPHA units with tenant paid utilities.
- 18) Having an active bench warrant.
- 19) Except for #13 and #14, an arrest or conviction is not required.

D. Other reasons to deny admission or qualifications for admission include:

- 1) Former MPHA tenants whose lease was terminated for any reason by MPHA shall establish for at least five years from the date of the move out that the applicant was not involved in any activity that was a factor or reason for the lease termination.

- 2) All applicants shall provide at least 36 months of their most recent consecutive residential history. Residential history may include but is not limited to: independent living; rental or ownership; shared residency; institutionalization group living; emergency shelters; transitional housing; and living with a guardian.
 - 3) MPHA may waive this requirement #2 if the applicant shows that the failure to provide such history is through no fault of the applicant. If MPHA waives this requirement, the applicant must provide three professional reference letters. MPHA will evaluate the veracity and credibility of the reference letters by considering any relevant factor including but not limited to the type of contact between the applicant and letter author, the duration of the contact, whether the contact is related to ability to comply with the lease, and whether the letter is a form letter.
 - 4) Prior to admission, former MPHA tenants must pay all money owed to MPHA. If the money is not timely paid MPHA will permanently withdraw the application. The applicant may request a grievance only if the applicant disputes the amount of money paid on the repayment agreement.
 - 5) Applicants whose initial NCIC report indicates a criminal history shall be fingerprinted by MPHA. Before making a decision regarding admission, MPHA will provide a copy of the and criminal records to the applicant. The applicant will have an opportunity to contest the accuracy and relevance of the records, before MPHA makes a decision.
 - 6) Except as allowed by MPHA's VAWA Policy, applicants may not remove a member of the household from the application in order to avoid the denial of the application.
 - 7) If MPHA has denied admission to an applicant, the applicant may not re-apply for six months from the date of the denial letter.
- E. In the event of the receipt of unfavorable information with respect to an applicant, including any evidence of illegal drug use, MPHA will consider the time, nature, and extent of the applicant's conduct and may consider factors which might indicate a reasonable probability of favorable future conduct or financial prospects, such as:
- 1) Written documentation of the successful completion of a drug or alcohol rehabilitation program approved by MPHA and six months of successful residential history after rehabilitation.
 - 2) Objective, written and verifiable evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling services and the availability of such services.
 - 3) Objective, written and verifiable evidence of successful modification of previous disqualifying behavior.

- 4) Objective, written and verifiable evidence that the family can pay public housing rent.
- 5) Objective, written and verifiable evidence that a person who has involved in disqualifying conduct has not been a member of the household for a reasonable amount of time and the family agrees to trespass that person and enforce the trespass.

4. QUALIFIED AND UNQUALIFIED APPLICANTS

- A. MPHA will analyze the verified information provided under Part III and determine the following:
 - 1) Eligibility of the applicant as a family;
 - 2) Eligibility of the applicant with respect to income limits for admission;
 - 3) Eligibility of the applicant and family members who are at least six years of age with respect to documenting Social Security Numbers;
 - 4) Qualification of the applicant with respect to the Tenant Selection Criteria; and
 - 5) Eligibility as a U.S. Citizen or having eligible non-citizen status.
- B. MPHA shall promptly notify applicants, who are eligible and qualify under the Tenant Selection Criteria and give an estimate of time as to when a unit may be offered.
- C. MPHA shall notify applicants who are ineligible and/or unqualified in writing of the basis for the determination.

Applicants who are unqualified because they do not meet the screening criteria will have an opportunity to request an informal hearing before a Hearing Panel to contest the denial determination. The applicant must submit a written request for an informal hearing within 10 working days of the date of the denial letter. The applicant should address the request to the Leasing and Occupancy Office of MPHA at 1001 Washington Ave N; Attention: Manager of Leasing and Occupancy. If the applicant does not timely request a hearing, the applicant waives the right to an informal hearing and may waive the right to further judicial review.
- D. INFORMAL HEARING: An applicant who was denied housing may ask for an informal hearing.
 - 1) A hearing panel of two MPHA residents and an uninvolved staff member will conduct the hearing.
 - 2) The applicant has a right to:
 - a) have counsel or other representative at applicant's expense;
 - b) give evidence and oral argument;
 - c) refute MPHA evidence;

- d) question witnesses; and
- e) the opportunity to look at MPHA's applicant file or other documents that MPHA may rely upon and request a copy of these documents at their expense.

- 3) The panel will decide the case solely on the facts presented at the hearing.
- 4) MPHA will notify the applicant within ten working days of the hearing panel's decision.
- 5) If the applicant does not attend the scheduled hearing, the hearing panel may decide that the applicant has waived the right to a hearing.
- 6) The MPHA is not bound by a hearing decision that is contrary to HUD regulations or requirements or is contrary to federal, state or local law, ordinance or the requirements of the annual contributions contract between HUD and MPHA.

In such cases, MPHA's Executive Director will review the matter. Within thirty (30) days MPHA will notify the applicant that the hearing decision is a violation of HUD regulations or requirements, or is contrary to federal, state or local law or ordinance, or the requirements of the annual contributions contract between HUD.

- 7) If the applicant does not like the hearing panel or Executive Director's decision, applicant may ask for judicial review as the law provides.
- 8) If an applicant presents a request for reasonable accommodation at the informal hearing, the hearing will be rescheduled until MPHA responds to the request. Please refer to the Reasonable Accommodation Policy.

E. An applicant with a disability may ask for a reasonable accommodation to help them with the application process or to follow the lease. With or without a reasonable accommodation, the applicant shall complete the application process, meet eligibility criteria and shall follow the lease. Applicant shall give a request for a reasonable accommodation to the Manager of Leasing and Occupancy and not to a hearing panel. MPHA will respond to the request within thirty (30) days from the Manager of Leasing and Occupancy's receipt of the written request for reasonable accommodation. MPHA will inform the applicant of an approval, denial or an ongoing investigation.

- 5. LANGUAGE SERVICES: MPHA will comply with its Limited English Proficiency Policy in providing language services to applicants. Please refer to the LEP plan.

DECISION OF INFORMAL HEARING OFFICER OR PANEL

Name of Applicant: John Stoick
c/o 3220 Poe Road, Brooklyn Center, MN 55429

Date of Hearing: February 4, 2010

A. MPHA EXHIBITS

APPLICANT'S EXHIBITS

- | | |
|---------------------------------------|--|
| 1. Amended RA Denial Letter | A. Client Denial Response |
| 2. Public Housing Application | B. Reference Letter (James Bunde) |
| 3. 24 CFR | C. Reference Letter (Stewart Mednick) |
| 4. BCA Report | D. Reference Letter (Catholic Charities) |
| 5. FBI Report | E. _____ |
| 6. Criminal Case History | F. _____ |
| 7. MPHA Statement of Policies | G. _____ |
| 8. MPHA Reasonable Accom. Policy | H. _____ |
| 9. MPHA Applicant Screening Guideline | I. _____ |
| 10. _____ | J. _____ |
| 11. _____ | K. _____ |
| 12. _____ | L. _____ |
| 13. _____ | M. _____ |
| 14. _____ | N. _____ |
| 15. _____ | O. _____ |

B. Witness/Attendees

1. _____
2. _____
3. _____
4. _____



C. Summary of Applicant/Witness Evidence

D. Summary of MPHA's Evidence

history does not demonstrate capability of compliance
in the terms of mpha lease.
Does not pass screening - 2 years after probation

Please check and complete Part E or F, but not both.

E. Overturn MPHA's Decision

_____ The Panel/Officer overturns MPHA's denial of admission to the applicant for the following reasons:

F. Denial of Admission to Public Housing

_____ | The panel has determined that based upon all of the factors that there is insufficient evidence to show a reasonable probability of favorable future conduct. The Panel/Officer upholds MPHA's denial of admission to the applicant for the reasons stated below and for the reasons stated in MPHA's denial letter numbered _____.

Mr. Stoick has relapsed under doctors care showing that his history does not demonstrate capability of compliance with the terms of the lease. Does not pass screening - Gross misdemeanor - 2 years after sentence is complete will be eligible Aug 26, 2010.

G. Final Decision

The Panel/Officer have reviewed the time, nature and extent and seriousness of applicant's conduct and the factors that may indicate a reasonable probability of favorable future conduct. These factors may include landlord verifications, letters of recommendation, honesty in completing the application process, the witness or applicant's credible testimony or documents, evidence of completion of an approved alcohol/drug rehabilitation program, six months of successful residential history, and applicant's participation or willingness to participate in social or counseling services.

By signing below each Panel/Officer attests that the final decision was based upon all of the evidence presented at the hearing.

Signatures: Been Ken
[Signature]
[Signature]

Dated: 2/4/10

Reasonable Accommodation Denial Hearing

DECISION OF INFORMAL HEARING OFFICER OR PANEL

Name of Applicant: John Stoick
c/o 3220 Poe Road, Brooklyn Center, MN 55429

Date of Hearing: February 4, 2010

A. MPHA EXHIBITS

APPLICANT'S EXHIBITS

- | | |
|---|---|
| 1. Amended R.A./Application Denial Letter | A. Applicant Reasonable Accommodation Request incl. Dr. Bunde Letter of 8/26/09 |
| 2. BCA Report | B. Criminal Incident Summary |
| 3. FBI Report | C. _____ |
| 4. Criminal Case History | D. _____ |
| 5. MPHA Reasonable Accommodation Policy | E. _____ |
| 6. _____ | F. _____ |
| 7. _____ | G. _____ |
| 8. _____ | H. _____ |
| 9. _____ | I. _____ |
| 10. _____ | J. _____ |
| 11. _____ | K. _____ |
| 12. _____ | L. _____ |
| 13. _____ | M. _____ |
| 14. _____ | N. _____ |
| 15. _____ | O. _____ |

B. Witness/Attendees

1. Brian Rochel - Law clerk
2. Dorinda Widen - Legal Aid Attorney
3. _____
4. _____



C. Summary of Applicant/Witness Evidence

Received Criminal Record breakdown
Minneapolis Public Housing Authority Admission Appeal
hearing memorandum.

D. Summary of MPHA's Evidence (Reasonable Accommodation)

Mr. Stoick stated it is unreasonable to expect him not to
relaps - The accommodation would pose a direct threat
to others' health and safety when you have a history
of arrests for indecent exposure, assault, burglary,
trespassing and disorderly conduct. Treatment for
depression started in 95 - criminal activity continued
up to 2009.

Please check and complete Part E or F, but not both.

E. Overturn MPHA's Decision

_____ The Panel/Officer overturns MPHA's denial of admission to the applicant for the
following reasons:

F. Denial of Admission to Public Housing (Reasonable Accommodation)

The panel has determined that based upon all of the factors that there is insufficient evidence to show a reasonable probability of favorable future conduct. The Panel/Officer upholds MPHA's denial of admission to the applicant for the reasons stated below and for the reasons stated in MPHA's denial letter numbered EXHIBIT 1.

MPHA does not agree that alcoholism is a disability for purposes of admission to housing. Mr. Stoick has relapsed and continued to criminal activity from 1985 to 2009. He stated it would be unreasonable to expect him not to relaps. Accommodating Mr. Stoick's would pose a direct threat to others' health and safety when ~~he~~ has a history of arrests for indecent exposure, assault, burglary, trespassing, and disorderly conduct. Mr. Stoick has ~~not~~ stopped using methadone for 2 weeks. He did this on his own and is not under any current care.

G. Final Decision

The Panel/Officer have reviewed the time, nature and extent and seriousness of applicant's conduct and the factors that may indicate a reasonable probability of favorable future conduct. These factors may include landlord verifications, letters of recommendation, honesty in completing the application process, the witness or applicant's credible testimony or documents, evidence of completion of an approved alcohol/drug rehabilitation program, six months of successful residential history, and applicant's participation or willingness to participate in social or counseling services.

By signing below each Panel/Officer attests that the final decision was based upon all of the evidence presented at the hearing.

Signatures:

Beth King
[Signature]
[Signature]

Dated: 2-4-10

APPLICANT HEARING RULES

Minneapolis Public Housing Authority, December 10, 2007

1. The Hearing Officer(s) are in charge of the hearing.
2. The hearing shall be orderly. If a person exhibits disorderly conduct, a hearing officer may remove the person from the hearing.
3. All participants shall turn off cell phones, pagers and other similar devices during the hearing.
4. The MPHA shall present its case first so that the issues are stated.
5. The parties may present oral and documentary evidence relevant to the case.
6. The hearing is not subject to judicial rules of evidence and a hearing officer may allow hearsay evidence.
7. An attorney or another person may represent the applicant at the applicant's expense.
8. Legal memorandums which include other written arguments are not evidence. A memorandum shall be in the format listed below.¹ An MPHA attorney must receive the memorandum three working days prior to the hearing date.
9. The applicant may question witnesses and present witnesses, documents and arguments in support of their position and to dispute MPHA's evidence.
10. A Hearing Officer may ask questions of the applicant, MPHA or any witness which are relevant to the issues.
11. If an applicant asks for a reasonable accommodation during the hearing, the hearing will be rescheduled so that MPHA can respond to the request.
12. MPHA has the burden to show that the denial of admission complies with admission standards.
13. Hearing Officer(s) decision shall be based solely on the relevant evidence presented at the hearing and shall not make any settlements or agreements with the applicant.
14. In making the decision, the Hearing Officer(s) will consult amongst themselves and may not consult with any one else.
15. MPHA will mail a copy of the Hearing Officer(s) decision to the applicant within 10 working days or within a reasonable time.
16. If the applicant does not agree with the panel's decision, the applicant may appeal to a court of law.
17. If MPHA does not agree with the panel's decision, it may ask the MPHA Executive Director to review and overturn the decision.

¹ A memorandum is limited to three 8 ½ x 11 pages in length and shall have no more than 1050 words or be in a mono-spaced font and contain no more than 96 lines of text. The applicant shall deliver a written request for an enlarged memorandum to a MPHA attorney, 10 days before the memorandum is due.





July 8, 2009

John Stoick
1000 Currie Ave N
Mpls, Mn 55403

Dear Mr. Stoick:

The Minneapolis Public Housing Authority (MPHA) has completed its investigation regarding your application for public housing. MPHA reviewed your entire application file and the information gathered during your interviews, which may include:

- | | |
|---------------------------------------|-------------------------------|
| Chemical Dependency Treatment Records | Landlord Verification Records |
| Credit History | Letters of Recommendation |
| Criminal History | Residential History |
| Application | Unlawful Detainer Records |
| Other _____ | |

Based upon this investigation, MPHA is denying your application for admission to public housing for the following reasons:

1. You indicated on your application that you had committed, were arrested for, were found guilty of, or had plead guilty to the following:
 - a. You attached (a copy of Hennepin County criminal records – MNCIS) to your application.
2. Based upon your criminal history, MPHA has determined that you were arrested for, were charged with, plead guilty to, or were convicted of twenty incidents which you did not disclose on your application. MPHA has circled the case number for each incident on the enclosed records from the Federal Bureau of Investigation (FBI) and/or Hennepin County.
3. You were on probation for Indecent Exposure/Lewdness or Procure Another to Expose In Presence of Minor Under 16 (offense date 6/25/2005) until 9/12/2009. Based on MPHA's criteria for admission, you will not be considered for housing until 8/26/2013, or after.
4. You have a pattern of criminal behavior.

EXHIBIT
Applicant's
AD-6A

Blumberg No. 6119
PLAINTIFF'S
EXHIBIT
AA

John Stoick
July 8, 2009
Page 2

5. You did not indicate on your application or during your interview the use of the following alias names:

- a. John Dwight Stack
- b. Michael Steven Perra
- c. John D Stooick

6. You did not provide true or accurate information about your criminal history or other information on your application or during your interviews. According to MPHA's Statement of Policies and Screening Guidelines, MPHA is denying your application for admission to public housing. If you think MPHA made a mistake, you have the right to request an Informal Hearing. You must request a hearing in writing within the next (10) working days. You must return the request to us by July 22, 2009.

You may request a hearing by completing the enclosed form or a written request for a hearing and returning it to:

Minneapolis Public Housing Authority
ATTN: Data Entry
Leasing & Occupancy Department
1001 Washington Avenue North
Minneapolis, Minnesota 55401-1043

If you have a disability, you may request a reasonable accommodation to assist you in the admission process or to meet the eligibility requirements for admission. It is your right not to ask for a reasonable accommodation. With or without a reasonable accommodation you are required to meet the essential eligibility requirements for admission. If you have any questions, please call Kim Hamilton at (612) 342-1472.

If you think you are a victim of actual or threatened domestic violence, dating violence or stalking and that the incident is related to your denial of admission, please contact Betty Battle to certify your status as a victim. If you are a victim, MPHA may not use the incident as a reason to deny your admission. If you have any questions, please call Betty Battle at (612) 342-1411.

Sincerely,



Mary C. Zanmiller
Quality Control Specialist

MZ/df
enclosure

**MINNEAPOLIS PUBLIC HOUSING AUTHORITY
ADMISSION APPEAL HEARING MEMORANDUM**

IN RE THE APPLICATION OF JOHN STOICK

This hearing concerns the appeal of Mr. John Stoick from the denial of his request for reasonable accommodation in regard to the denial of his application to public housing with the Minneapolis Public Housing Authority (MPHA). This hearing occurs pursuant to federal statutes and regulations, Department of Housing and Urban Development (HUD) Guidelines, and the MPHA Statement of Policies for its administration of its public housing program. Mr. Stoick requests this hearing so that he may present evidence and legal arguments to show that the MPHA did not have a valid reason to deny his request for reasonable accommodation or his application. If the MPHA's reasons for denying Mr. Stoick's request for reasonable accommodation and his application are reviewed in light of the evidence presented, including Mr. Stoick's testimony, and the legal arguments below, the Panel will conclude that Mr. Stoick's reasonable accommodation request be approved, and in any event his application must be approved. Consequently, the Panel will reverse the MPHA's decisions on both points.

STATEMENT OF FACTS

Mr. Stoick is a 55-year-old single man who applied for a public housing unit in June of 2009. A copy of his application is attached as Exhibit AD-2. Mr. Stoick is eligible for public housing under federal regulations because he has a disability. *See* 24 C.F.R. § 5.403. He is also financially eligible under the MPHA's eligibility guidelines. *See* MPHA Statement of Policies (SOP), Appx. A at 112 (2009).

The MPHA denied Mr. Stoick's application in a letter dated July 8, 2009, attached as Exhibit AD-A. The letter gave "the following reasons:"

1. "You indicated on your application that you had committed, were arrested for, were found guilty of, or had plead guilty to the following: (a) You attached (a copy of Hennepin County criminal records – MNCIS) to your application."
2. "Based on your criminal history, MPHA has determined that you were arrested for, were charged with, plead guilty to, or were convicted of twenty incidents which you did not disclose on your application. MPHA has circled the case number for each incident on the enclosed records from the Federal Bureau of Investigation (FBI) and/or Hennepin County." The FBI Report is attached to this memo as Exhibit RA-3/AD-5.
3. "You were on probation for Indecent Exposure/Lewdness or Procure Another to Expose In presence of Minor Under 16 (offense date 6/25/2005) until 9/12/2009. Based on MPHA's criteria for admission [attached to this memo as Exhibit AD-9], you would not be eligible to be considered for housing until 8/26/2013, or after."
4. You have a pattern of criminal behavior.
5. "You did not disclose on your application the use of the following alias names: (a) John Dwight Stack; (b) Michael Steven Perra; (c) John Stoick."



6. "You did not provide true or accurate information about your criminal history or other information on your application or during your interviews."

The Panel should note that the letter only actually asserts four reasons for why the MPHA has denied admission to Mr. Stoick, though Mr. Stoick argues that none of these are valid reasons to deny him admission. The four reasons asserted are: (1) denial under the Statement of Policies because Mr. Stoick did not disclose several criminal incidents; (2) denial under the screening guidelines because Mr. Stoick's probation ended September 12, 2009; (3) denial under the Statement of Policies because of a "pattern of criminal behavior;" and (4) denial under the Statement of Policies because Mr. Stoick failed to disclose three "alias" names. Number 1 states facts rather than reasons for denial; and number 6 only provides the basis for why the MPHA believes it may deny Mr. Stoick's application for failing to disclose the information listed in numbers 2 and 5.

As required by MPHA Policy, Mr. Stoick requested a hearing before July 22, 2009. In addition, Mr. Stoick requested that his disabilities be reasonably accommodated as required under federal statutes and regulations as well as MPHA policies. Mr. Stoick suffers from severe depression which has resulted in severe alcoholism, both of which drove him to homelessness and led him to engage in regretful criminal activity. Mr. Stoick and his psychotherapist, Dr. Bunde, requested the MPHA accommodate his disabilities by setting aside his criminal history, which is caused by his depression and alcoholism. His request for reasonable accommodation, dated September 1, 2009, is attached as Exhibit RA-A. Dr. Bunde's letter in support of Mr. Stoick's request for reasonable accommodation is also included with this letter and Exhibit RA-A.

MPHA denied Mr. Stoick's request for reasonable accommodation waiving his criminal history in a letter dated September 24, 2009 and attached as Exhibit RA-1/AD-1. The MPHA denied Mr. Stoick's reasonable accommodation for four basic reasons: because (1) alcoholism not a disability for purposes of admission to public housing; (2) Dr. Bunde's assessment is not credible; (3) Mr. Stoick's claim that he is successfully completing treatment is not credible; and (4) no nexus exists between Mr. Stoick's disability and criminal history. *See* Amended RA Denial Letter, September 24, Exhibit RA-1/AD-1.

Upon denying Mr. Stoick's request for reasonable accommodation, the MPHA also amended its denial letter and changed some of its reasons for denying Mr. Stoick. The Amended Denial Letter indicates that Mr. Stoick is being denied because he was "charged with, plead guilty to, or was convicted of nine (9) incidents which" he allegedly did not disclose. Amended Denial Letter, Exhibit RA-1/AD-1. The MPHA thus amended its assertion that Mr. Stoick failed to disclose 20 incidents and to only claim that Mr. Stoick failed to disclose nine charges, arrests or convictions.

Second, the MPHA clarified that Mr. Stoick's probation for "indecent exposure is not on MPHA's screening guidelines," but notwithstanding that fact the MPHA still "determined that an appropriate length of time after completion of [his] probation is two years. This is based on MPHA's screening guidelines for other gross misdemeanor crimes, the repetitive nature of [his] conduct and the length of [his] probation." *See* Amended RA Denial Letter, Exhibit RA-1/AD-1.

These “screening guidelines” do not appear anywhere in the MPHA’s Administrative Plan, Statement of Policies or on its website. Mr. Stoick will testify that he has never seen these screening guidelines.

In addition, the MPHA’s original denial letter dated July 8, 2009 asserted that these screening guidelines prohibit Mr. Stoick from being considered for eligibility until Aug 26, 2013. Original Denial Letter, July 8, Exhibit AD-A, ¶ 3. But the MPHA’s Amended Letter drastically changed that assertion, declaring instead that Mr. Stoick would not be considered until September 12, 2010. Amended RA Denial Letter, Exhibit 1 RA-1/AD-1 ¶ 3.

Mr. Stoick will testify on February 4, 2009, that he has been diagnosed with severe depression, anxiety disorder and chemical dependency for decades. He will testify that his arrests and convictions over that time period were the result of these disabilities. Mr. Stoick told the MPHA about his criminal past and that it was caused by his depression and alcoholism immediately upon applying to public housing. The case notes for his file, attached as Exhibit AD-F, show that Mr. Stoick did so on October 29, 2008.

Mr. Stoick will testify about his relationship with Dr. Bunde, his psychotherapist who has treated him for over a year. Dr. Bunde asserts that Mr. Stoick’s legal history is a “direct result of many years of untreated major depression, manifesting itself in substance dependence and related difficulties.” Mr. Stoick will testify that he discussed the criminal history with Dr. Bunde at length during the course of counseling. Mr. Stoick will testify that he would not have engaged in the activities that lead to his negative criminal history if it were not for his past unresolved depression and alcoholism.

Mr. Stoick will further testify that he has undergone and continues to undergo successful and effective treatment for both of his disabilities. Dr. Bunde agrees, and his letter on behalf of Mr. Stoick describes in detail how Mr. Stoick has and continues to succeed in his treatment plan. Dr. Bunde insists that Mr. Stoick “has been prompt with regard to appointments, and has been consistently engaged, cooperative, and motivated during our sessions.” Dr. Bunde notes that Mr. Stoick “has been forthcoming regarding his history, taken responsibility for problematic decisions, acknowledged the role of substances in his difficulties, and committed to pursue sustained sobriety.”

Dr. Bunde states that Mr. Stoick “reports sobriety from drugs and alcohol, and I have no reason to doubt this assertion.” This is because Dr. Bunde has noticed that Mr. Stoick’s “psychological stability has improved markedly, with good correspondence between behavior and report, and he has experienced no substance-related cravings in recent months.”

In addition, Mr. Stoick will testify about his participation in the Veterans’ Upward Bound Program for vocational and educational training. He will testify that he is actively seeking employment and about his participation in educational classes as well.

Mr. Stoick will further testify that he has been sober for over a year. Mr. Stoick undergoes regular medical and counseling treatment at Specialized Treatment Services (STS) in addition to his sessions with Dr. Bunde. Mr. Stoick will testify that he is subject to random urine

analysis (UA) testing at STS to ensure that he is complying with program requirements and not consuming alcohol. The STS program is based on phases; as Mr. Stoick successfully completes phases of the program he moves up. Mr. Stoick will testify that he has successfully reached phase three of the program.

Next, Mr. Stoick will testify that he made his best effort to fully and accurately complete his MPHA application. Mr. Stoick answered "Yes" on the MPHA application and in the interview when asked whether he had "EVER committed, been arrested, found guilty of or plead guilty to a misdemeanor, or felony, or an equivalent crime or an offense anywhere?" Mr. Stoick attached his complete MNCIS report, which is a public record maintained by the State of Minnesota.

Mr. Stoick had no reason to believe that the MNCIS report did not contain all arrests or charges in his past. The MPHA accepted his MNCIS report and never asked if there were any arrests or convictions in his past that were not on the report. Mr. Stoick will testify that he does not know how MNCIS or other background reporting works, but that he fully believed every criminal incident in his past was on the report. He will testify that he does not know why any other arrests or charges would not be on the MNCIS report.

Furthermore, the MNCIS Report only fails to include two relevant incidents from Mr. Stoick's past. Both incidents are not serious and occurred more than 12 years ago. Mr. Stoick will testify that he had no reason to believe either of these incidents was not included in his MNCIS Report when he attached it to his application.

Finally, Mr. Stoick will testify that he does not use any aliases that are relevant to the MPHA application. He was born John Dwight Stoick, but when he was adopted at age four his parents changed his name to Michael Steven Perra. However, his parents did not legally change his name. He went by Michael Steven Perra until the day he enlisted in the Marines at age 18, when he found out that his legal name was John Dwight Stoick. He goes by John Stoick and does not use Michael Steven Perra as an alias. He does not use any other name as an alias.

Mr. Stoick will testify that he is reliable, follows the rules, and is helpful, pleasant and respectful. Dr. Bunde's letter will demonstrate this as well. Mr. Stoick will also testify that the MPHA has character references, which are attached as Exhibits AD-C, AD-D and AD-E, respectively. These references are completely positive, and show that Mr. Stoick would be a good tenant for public housing because he follows the rules, does not create a disruption, and keeps his space well maintained and clean. Mr. Stoick's testimony will support this.

ARGUMENTS

- 1. The Panel should grant Mr. Stoick reasonable accommodation and not consider his criminal history in determining whether he is eligible.**

Government housing providers are required to provide reasonable accommodations to tenants and applicants under the Fair Housing Act (FHA), Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. Reasonable accommodation includes a change in a rule or

policy that may be necessary to allow a person with a disability the equal opportunity to use and enjoy a dwelling. *See, e.g.*, 42 U.S.C. §3604(f) (2008); Joint Statement of HUD and DOJ at 6 (May 17, 2004) [hereinafter Joint Statement]. The federal definition of disability for purposes of reasonable accommodation includes a person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such an impairment. *See, e.g.*, 29 U.S.C. §706(8); 42 U.S.C. §3602(h); 42 U.S.C. §12101; Joint Statement at 3.

The only way a housing provider can deny a reasonable accommodation is by establishing that the accommodation (1) creates an undue financial or administrative burden, (2) fundamentally alters the nature of the program or (3) creates a direct threat to the health or safety of others. 24 C.F.R. §8.11 (2008); 24 C.F.R. §8.53 (2008).

a. Waiving Mr. Stoick's criminal history is an appropriate reasonable accommodation.

Mr. Stoick has disabilities under federal law which can be reasonably accommodated by excluding his criminal record. There is a tight nexus between Mr. Stoick's disability, his proposed accommodation and his ability to show reasonable probability of future favorable conduct.

i. Disability

Alcoholism is a disability under the FHA and the ADA and thus for the purposes of determining a reasonable accommodation. *See, e.g., Dovenmuehler v. St. Cloud Hosp.*, 509 F.3d 435 (8th Cir. 2007); 42 U.S.C. § 12112(a); Joint Statement at 3. Depression and anxiety are also disabilities for the purposes of reasonable accommodation. *See id.* Mr. Stoick has experienced many years of untreated major depression and anxiety which has manifested in alcohol dependence. *See* Letter from Dr. James Bunde, Exhibit RA-A. Dr. Bunde concludes that Mr. Stoick has both "has an impairment" and "a record of such impairment." *Id.*

ii. Accommodation

In order to accommodate Mr. Stoick's disabilities, the Panel should disregard his criminal history. As Dr. Bunde explains, Mr. Stoick's legal history is a "direct result of many years of untreated major depression, manifesting itself in substance dependence and related difficulties." *Id.* Mr. Stoick would not have engaged in the activities that lead to his negative criminal history if it were not for his past depression and alcoholism.

Now, Mr. Stoick has undergone and continues to undergo successful and effective treatment for his disabilities. *See id.* In addition, Mr. Stoick is participating in the Veterans' Upward Bound Program for vocational and educational training, is actively seeking employment and intends to enroll in school in the future.

Mr. Stoick has been sober for nearly a year. He undergoes regular medical and counseling treatment at Specialized Treatment Services (STS) in addition to his sessions with Dr.

Bunde. At STS he is also subject to random UA testing. Therefore, Mr. Stoick clearly evinces reasonable probability of future favorable conduct.

Thus, in order for Mr. Stoick to have an “equal opportunity to use and enjoy” public housing through the MPHA, it is necessary for the MPHA to modify its policy regarding criminal background screening for this once instance. If the MPHA refuses to do so, it will subject Mr. Stoick to discrimination based solely on the past manifestations of his disabilities. Moreover, granting Mr. Stoick this accommodation will not place an undue financial or administrative burden on the MPHA nor will it fundamentally alter the nature of the MPHA’s public housing program. And it does present risk of an immanent threat to the health or safety of public housing residents.

iii. Nexus

Mr. Stoick cannot enjoy the benefits of public housing because of MPHA’s policy of rejecting applicants based on criminal history. But Mr. Stoick’s criminal history is predicated on his disabilities. He has not engaged in one criminal incident in his life that was not the result of his depression, anxiety or chemical substance dependency. The criminal incidents in his past are clearly linked to his disabilities and especially his chemical use. Dr. Bunde and Mr. Stoick both agree that he would not engage in the criminal activity in his past if he were successfully treated for his disabilities.

Further, Mr. Stoick’s criminal history does not even suggest that Mr. Stoick presents a threat or danger to the public housing community. Moreover, Mr. Stoick has demonstrated that he can overcome the negative manifestations of his disabilities with proper treatment. Further, Mr. Stoick is successfully undergoing that treatment and will continue to do so in the future. As such, waiving Mr. Stoick’s criminal history is clearly related to his disabilities, his likely future favorable conduct and his “equal opportunity to use and enjoy” public housing through the MPHA.

2. Even if the Panel does not reasonably accommodate Mr. Stoick, his criminal history does not make him ineligible for public housing.

HUD’s Occupancy Guidebook reminds housing authorities to “carefully check into the facts” and to “obtain a full understanding of the circumstances” when screening public housing applicants. HUD Occupancy Guidebook at 55. When making an admission decision, the MPHA must consider “time, nature and extent” of an applicant’s conduct. 24 C.F.R. § 960.203(d). The MPHA must also consider the “seriousness of the offense” and whether there are any “mitigating circumstances.” HUD Occupancy Guidebook at 54, 56-57. The Panel must also consider these things, and must base its decision on all of the evidence presented. *See Senior v. City of Edina*, 547 N.W. 2d 411, 416 (Minn. App. 1996) (Decision of the Panel must be supported by the record).

The MPHA may not deny an applicant simply because they have a criminal history.¹ The MPHA may only deny an applicant for two kinds of “criminal activity:”

1. Criminal activity that will threaten the health, safety, or peaceful enjoyment of other residents, or the health or safety of staff. 24 C.F.R. § 960.203(c)(2) and (3).
2. Criminal activity involving physical force or threats of force that could cause serious injury to a person, or serious damage to property. 24 C.F.R. § 5.100.

The MPHA may not deny an applicant for activities that are not related to their suitability as a tenant. *See Thomas v. Hous. Auth. of City of Little Rock*, 282 F.Supp. 575, 579 (Dist. Ark 1967) (“regulations and policies [of housing authorities] must bear a reasonable relationship to the low rent housing program and the proper operation thereof”). And, HUD’s Occupancy Guidebook advises PHAs to check for incidents of criminal activity “that would be lease violations if they were committed by a public housing resident.” HUD Occupancy Guidebook at 53.

Mr. Stoick only has a few criminal incidents that are even relevant to his ability to conform to the rules and regulations of public housing. Overall, Mr. Stoick only has seven incidents on his record in the past 10 years. These incidents were the result of his disabilities and chemical use. But Mr. Stoick is successfully treating his disabilities and has been sober for nearly a year and a half. He is not currently on probation for anything, and does not have any recent serious or violent crimes. Overall, Mr. Stoick does not present a threat to public housing.

3. The Panel should strike ¶ 3 of the Amended Denial Letter because it does not list any actually reasons to deny an application for public housing.

Under federal law, public housing admissions criteria must be “established.” 24 C.F.R. § 960.203(a). HUD’s Public Housing Occupancy Guidebook (Occupancy Guidebook) explains what this means. The Occupancy Guidebook states that “[a]pplicant selection policies should be set forth clearly, in writing, in each PHA’s Admissions and Continued Occupancy Policy (ACOP),” and that “[a]pplicants for public housing are screened according to policies set forth in the ACOP...” HUD Occupancy Guidebook at 47-48.

In order for the MPHA to use certain criteria when screening public housing applicants, it must include those criteria into its Statement of Policies² which are submitted to HUD and approved by the Resident Advisory Board. 42 U.S.C. § 1437c-1(d)(3); *See also Baldwin v. Hous. Auth. of the City of Camden, New Jersey*, 278 F. Supp. 2d. 365, 371, 380-381, 386 (Dist. N.J. 2003).

¹ The decision must be based on evidence of relevant criminal activity. HUD Occupancy Guidebook at 56 (“No member of the applicant family should be involved in *relevant* criminal activity for a recommendation of admission”) (emphasis added) and 57 (Applicants should have an “opportunity to dispute the . . . *relevance* of [criminal records]”) (emphasis added).

² The MPHA’s Statement of Policies is the same thing as an ACOP, a term used by the HUD Occupancy Guidebook and in cases about other public housing authorities.

¶ 3 of the Amended Denial Letter references “MPHA’s screening guidelines.” Exhibit RA-1/AD-1. These “Screening Guidelines” are attached as Exhibit AD-9. The Screening Guidelines are not permissible criteria to deny Mr. Stoick’s application. The Screening Guidelines are not contained in the MPHA’s Statement of Policies and therefore are not “established” as required by Federal law and HUD’s guidelines. *See* 42 U.S.C. § 1437c-1(d)(3); 24 C.F.R. § 960.203(a); HUD Occupancy Guidebook at 47-48. *See also Baldwin v. Hous. Auth. of the City of Camden, New Jersey*, 278 F. Supp. 2d. 365, 371, 380-381, 386 (Dist. N.J. 2003).

Moreover, these “guidelines” do not even apply to Mr. Stoick at all. The crime for which he was on probation, indecent exposure, is not listed anywhere on the guidelines. Instead, the MPHA has cobbled together an argument that indecent exposure somehow fits within the guidelines, but they have not even done that consistently. First, the MPHA said the guidelines prohibit Mr. Stoick from applying until Aug 26, 2013. Original Denial Letter, July 8, Exhibit AD-A, ¶ 3. But then the MPHA’s changed their rubric and asserted Mr. Stoick could not be considered until September 12, 2010. Amended RA Denial Letter, Exhibit RA-1/AD-1, ¶ 3.

This subjective, inconsistent application of the guidelines is precisely the reason that federal law requires public housing admissions criteria must be “established.” These “guidelines” are not established, not valid, and not consistently applied or publically available.

4. Mr Stoick should not be denied housing because the MNCIS Report he attached to his application did not include two non-serious incidents that occurred more than 12 years ago.

The MPHA’s amended denial letter asserts that Mr. Stoick was “charged with, plead guilty to, or was convicted of nine (9) incidents which” he did not disclose. *See* Amended RA Denial Letter, Exhibit RA-1/AD-1, ¶ 2. But the letter only lists seven incidents, not nine. *Id.* Of those seven incidents, Mr. Stoick did fully disclose four of them because they were on the MNCIS report. One incident does not appear to exist and cannot be found on any report in the MPHA’s file. Two incidents appear to not have been listed on Mr. Stoick’s MNCIS report. However, both incidents occurred more than 12 years ago and were not serious.

First, the MPHA asserts that Mr. Stoick did not disclose three criminal incidents which he did in fact disclose. The “Loitering with an Open Bottle” incident on February 25, 2009, is clearly listed on Mr. Stoick’s MNCIS report. The “Disorderly Conduct” incident dated August 8, 2003 on the MPHA’s Amended Denial Letter refers to Mr. Stoick’s FBI criminal record report. Exhibit RA-3/AD-5. The FBI report lists a “Disorderly Conduct” on August 8, 2003. *See* FBI Report, Exhibit RA-3/AD-5, pg. 2. However, that incident is actually referring to the Disorderly Conduct Mr. Stoick was charged with on August 28, 2001. The Disorderly Conduct is listed on Mr. Stoick’s MNCIS Report dated August 28, 2001. *See* MNCIS Report, Exhibit RA-4/AD-6. The FBI Report listed August 8, 2003, because that is the date a Probation Violation was denied and the court filed a document indicating the denial and the recall of a warrant for Mr. Stoick. *See* Stoick Disorderly Conduct, August 28, 2001, Exhibit AD-G, pg 2. The FBI Report and state criminal records are not always completely congruent.

Additionally, the MPHA alleges that Mr. Stoick failed to disclose an incident from October 13, 1985, that resulted in charges of “Aggravating Driving two counts of DWI. This is another incident that the MNCIS report did include, but the FBI and MNCIS reports are not completely congruent. The FBI Report lists the date as October 13, 1985. *See* FBI Report, Exhibit RA-3/AD-5, pg. 2. This is part of the Aggravated Driving incident reported on MNCIS on August 19, 1985. *See* MNCIS Report, Exhibit RA-4/AD-6; Stoick Aggravated Driving 8/19/85, Exhibit AD-H. The MNCIS Report demonstrates that Mr. Stoick was sentenced in October 1985, the same time the FBI Report lists the incident as being “received.” *See* FBI Report, Exhibit RA-3/AD-5, pg. 2; Stoick Aggravated Driving, Exhibit AD-H. Even if the FBI Report does refer to a separate incident, Mr. Stoick must be presumed not guilty pursuant to the FBI’s rules for interpreting the Report. *See* FBI Report, Exhibit RA-3/AD-5, pg. 1.

Finally, the MPHA asserts that Mr. Stoick did not disclose a charge for “felony burglary” on September 4, 2002. This incident is listed on the FBI Report and BCA Report. *See* FBI Report, Exhibit RA-3/AD-5; BCA Report, Exhibit RA-2/AD-4. However, this incident is also listed in the MNCIS Report as a Misdemeanor Trespass on September 17, 2002. MNCIS Report, Exhibit RA-4/AD-6; MNCIS Report, Trespass 9/17/02, Exhibit AD-I. Mr. Stoick was arrested on September 4, 2002, for entering an empty building to repair his bicycle. The MNCIS Report shows that he was arrested on September 4, charged on September 17, and never charged with “felony burglary” at all. Mr. Stoick did disclose this incident.

Second, the MPHA asserts that Mr. Stoick was arrested for or charged with “Riding Public Transit without Paying” on February 25, 2009. However, this alleged incident does not appear anywhere in Mr. Stoick’s criminal record. It does not appear on the MNCIS, FBI or Bureau of Criminal Apprehension (BCA) reports contained in Mr. Stoick’s MPHA file. Moreover, even if this allegation did exist, Mr. Stoick would not be required to report it to the MPHA anyway. The MPHA’s application only whether applicants have been “arrested for, charged with or convicted of misdemeanors, felonies or equivalent crimes.” Public Housing Application, Exhibit AD-2. Riding public transit without paying is a petty misdemeanor and thus does not fall within the scope of the MPHA’s application query.

Two incidents did not appear on Mr. Stoick’s MNCIS Report which he turned into the MPHA: (1) a “possession of burglary tools” arrest that occurred 12 years ago, never resulted in any charges and for which Mr. Stoick never even paid a fine; and (2) a 5th Degree Assault conviction from 23 years ago that Mr. Stoick did not know was missing from the MNCIS Report. Together, these do not show that Mr. Stoick tried to conceal anything from MPHA. Instead, Mr. Stoick was candid with his criminal history, attaching a full MNCIS report to his application which he reasonably believed detailed his full criminal history.

5. Mr. Stoick should not be denied housing because he does not use the name Michael Steven Perra as an “alias.”

The MPHA’s Statement of Policies lists several criteria for denying an application. One of these, which is referenced in the MPHA’s Denial Letter to Mr. Stoick is: “Failure to provide written, accurate, current, objective and verifiable information regarding income, assets, family

composition, childcare, alcohol abuse, illegal drug use or criminal activity.” SOP at 20. The fact that Mr. Stoick’s name appears in police records as “Michael Steven Perra” does not fall under any of these categories. It does not constitute evidence that he committed any criminal “act” that was not disclosed; it only shows that his name has been reported as Michael Steven Perra. The Panel should ignore this reason for denying Mr. Stoick admission because it is not based on established criteria. *See* 42 U.S.C. § 1437c-1(d)(3); 24 C.F.R. § 960.203(a); HUD Occupancy Guidebook at 47-48.

HUD’s Occupancy Guidebook reminds housing authorities to “carefully check into the facts” and to “obtain a full understanding of the circumstances” when screening public housing applicants. HUD Occupancy Guidebook at 55. When making an admission decision, the MPHA must consider “time, nature and extent” of an applicant’s conduct. 24 C.F.R. § 960.203(d). The MPHA must also consider the “seriousness of the offense” and whether there are any “mitigating circumstances.” HUD Occupancy Guidebook at 54, 56-57. The Panel must also consider these things, and must base its decision on all of the evidence presented. *See Senior v. City of Edina*, 547 N.W. 2d 411, 416 (Minn. App. 1996) (Decision of the Panel must be supported by the record).

The evidence, including Mr. Stoick’s testimony, shows that Mr. Stoick made an effort fill out his application honestly and completely. Mr. Stoick will testify that he does not use any aliases that are relevant to the MPHA application. He was born John Dwight Stoick, but when he was adopted at age four his parents changed his name to Michael Steven Perra. However, his parents did not legally change his name. He went by Michael Steven Perra until the day he enlisted in the Marines at age 18, at which point he found out that his legal name was John Dwight Stoick. He goes by John Stoick and does not use Michael Steven Perra as an alias. He does not use any other name as an alias.

The BCA Report does not show a single instance where Mr. Stoick used the name Michael Steven Perra to deceive law enforcement or during the commission of any crime. *See* BCA Report, Exhibit RA-2/AD-4. Instead, Michael Steven Perra is simply the name that was given to Mr. Stoick as a child, but because of confusion has not remained his name.

The other two “alias” names are clearly not valid reasons to deny Mr. Stoick eligibility. The first, “John Dwight Stack,” is simply a misspelling. It was never used as a name given to police officers and is not listed during the use of any crime. *See* BCA Report, Exhibit RA-2/AD-4. And the third, “John Dwight Stoick,” is in fact Mr. Stoick’s legal name.

6. The MPHA’s reasons are not supported by “substantial evidence.” Therefore, the Panel must reverse the MPHA’s denial of Mr. Stoick’s public housing application.

The Panel must reverse the MPHA’s denial of Mr. Stoick’s public housing application unless it is persuaded by the MPHA’s evidence. *See Basco v. Machin*, 514 F. 3d 1177, 1183-84 (11th Cir. 2008); *Carter v. Olmsted Co. Hous. & Redev. Auth.* 574 N.W. 2d 725, 731 (Minn. App. 1998).

The Panel cannot uphold the MPHA's denial unless there is "substantial evidence" that Mr. Stoick did not meet established criteria. *Campbell v. Minneapolis Pub. Hous. Auth.*, 168 F. 3d 1069, 1075-76 (8th Cir. 1999); *Carter v. Olmsted County Hous. Auth.*, 574 N.W. 2d 725, 730-731 (Minn. App. 1998); *Rinzin v. Olmsted County Hous. Auth.*, Case No. 07-2344, 6 (Minn. App. Filed Nov. 25, 2008) (determination that a family is ineligible for Section 8 benefits must be based on Substantial Evidence).

The Panel's decision can be based only on the evidence that is presented at the hearing, or contained in the Denial Letter. *Senior v. City of Edina*, 547 N.W. 2d 411, 416 (Minn. App. 1996) (decision must be supported by the record).

The evidence shows that Mr. Stoick will be a good public housing tenant because he is respectful, clean, and follows the rules. The evidence shows first that Mr. Stoick should be reasonably accommodated; but, that even if he is not, his criminal history does not warrant ineligibility from public housing. The evidence also shows that Mr. Stoick tried to complete his public housing application accurately and thoroughly, even attaching his entire criminal record compiled by the state. The two incidents that were not listed on that report are small, and must be considered in light of all the circumstances. Finally, the evidence shows that Mr. Stoick does not use any "alias" names. The positive evidence showing that Mr. Stoick is a suitable public housing tenant outweighs the fact that he made these two omissions.

The Panel must ignore the MPHA's Screening Guidelines which say that Mr. Stoick cannot be admitted to public housing until two years after the end of his probation. These Screening Guidelines are not a valid reason to deny Mr. Stoick's application because they are not established criteria. *See* 42 U.S.C. § 1437c-1(d)(3); 24 C.F.R. § 960.203(a); HUD Occupancy Guidebook at 47-48.

If the Panel carefully reviews all the evidence, considers mitigating factors and follows federal regulations it will reverse the MPHA's denial of Mr. Stoick's application.

7. The MPHA must provide "due process" to Mr. Stoick throughout its review of his application, and in the informal hearing.

If MPHA establishes an admissions procedure, it must comply with due process in administering that procedure, including the informal hearing. Federal regulations prescribe requirements for "public housing grievance hearing[s]." *See* 24 C.F.R. § 966. In substance, the informal hearing provided to applicants who have been denied MPHA housing is a public housing grievance hearing. *See* SOP at 22-23. Therefore, federal regulations governing such hearings should apply.

Procedural due process may be found where an interest stems from an "independent source." *Bd. of Regents v. Roth*, 408 U.S. 564, 577 (1972). Public housing applicants have an interest stemming from federal regulations which govern public housing admissions and grievance procedures, and from the MPHA's own policies which provide for an informal hearing after an application is denied. *See* 24 C.F.R. §§ 960.203, 966; SOP at 22.

Courts have identified a right to procedural due process when a decision-maker's discretion is limited by "particularized standards." See *Baldwin*, 278 F. Supp. 2d at 378, (citing *Olim v. Wakinekona*, 461 U.S. 238 (1983)). Like the plaintiff in *Baldwin*, Mr. Stoick is a low-income individual whom the statute, HUD regulations, and MPHA guidelines were intended to benefit. See *Baldwin*, 278 F. Supp. 2d. at 380.

Due process means that public housing applicants are evaluated based on established criteria, which is adopted as part of a housing authority's annual plan and approved by the Resident Advisory Board (RAB). See *Baldwin*, 278 F. Supp. 2d at 380-381, 386. MPHA's Statement of Policies is part of the information that must be included in the annual plan submitted to HUD. See 24 C.F.R. § 903.7.

Due process also means that an informal hearing must provide applicants with "meaningful review" and an "opportunity to be heard" *Baldwin v. Hous. Auth. of the City of Camden, New Jersey*, 278 F. Supp. 2d at 387. Hearing Procedures must be referenced in the denial letter sent to an applicant. HUD Occupancy Guidebook at 57.

CONCLUSION

The Panel is faced with two separate decisions today. First, the Panel should determine that Mr. Stoick should be reasonably accommodated by having his criminal history set aside in determining his eligibility for public housing. He should be accommodated and have his history set aside because all incidents result from his disabilities and the requested accommodation is reasonable by applicable legal standards. Second, regardless of whether the Panel grants Mr. Stoick's reasonable accommodation request, the Panel should decide that Mr. Stoick is eligible for public housing.

The Panel must consider all of the arguments and evidence presented at the hearing, including the many positive references that show that Mr. Stoick would be a good neighbor and a good public housing tenant. When looking at the evidence, the Panel must consider all of the mitigating circumstances, the "time, nature and extent" of any potentially negative conduct, and whether those actions were "significant" or not. The Panel must also ask whether the MPHA has given valid reasons for denying Mr. Stoick admission to public housing and whether the MPHA has supported its reasons with "substantial evidence." The MPHA has the burden of persuading the Panel that Mr. Stoick did not meet admissions standards for public housing. Because the MPHA has not given reasons that are based on established criteria, and because the MPHA cannot support its reasons with "substantial evidence," the Panel must reverse the MPHA's decision.

Sincerely,

February 4, 2010

Brian Rochel
Law Clerk for Dorinda Wider, Esq.
Legal Aid Society of Minneapolis



Direct Telephone No. (612) 342-1443 Fax No. (612) 342-1417

February 12, 2010

SENT BY FACSIMILE & U.S. MAIL

Dorinda Wider, Esq.
Legal Aid Society of Minneapolis
430 First Avenue North, Suite 300
Minneapolis, Minnesota 55401-1780

RE: John D. Stoick/Amended Exhibit Lists


Dear Ms. Wider:

As requested, please find enclosed a copy of the correct Exhibit List for both hearings. By this letter I am also sending the correct Exhibit Lists to John Stoick.

If you have any questions, please contact me at (612) 342-1443.

Sincerely,

MINNEAPOLIS PUBLIC HOUSING AUTHORITY


Carol A. Kubic, Esq.
General Counsel

CAK/ll

Enclosures

cc; John D. Stoick



Application Denial Hearing

DECISION OF INFORMAL HEARING OFFICER OR PANEL

Name of Applicant: John Stoick
c/o 3220 Poe Road, Brooklyn Center, MN 55429

Date of Hearing: February 4, 2010

A. MPHA EXHIBITS

APPLICANT'S EXHIBITS

- 1. Amended R.A./Application Denial Letter
- 2. Public Housing Application
- 3. 24 C.F.R. § 960.203
- 4. BCA Report
- 5. FBI Report
- 6. Criminal Case History
- 7. MPHA Statement of Policies
- 8. Letter to Applicant Re: Criminal Records
- 9. MPHA Applicant Screening Guidelines
- 10. _____
- 11. _____
- 12. _____
- 13. _____
- 14. _____
- 15. _____

- A. MPHA's Original Denial Letter, July 8, 2009
- B. Criminal Incident Summary
- C. Reference Letter (Adam Miller)
- D. Reference Letter (James Bunde)
- E. Reference Letter (Stewart Mednick)
- F. MPHA Stoick File Case Notes
- G. Disorderly Conduct, MNCIS 8/28/01
- H. Aggravated Driving, MNCIS 8/19/85
- I. Trespass-Misd., MNCIS 9/17/02
- J. _____
- K. _____
- L. _____
- M. _____
- N. _____
- O. _____

B. Witness/Attendees

- 1. _____
- 2. _____
- 3. _____



September 24, 2009

John Stoick
c/o 3220 Poe Road
Brooklyn Center, MN 55429

**AMENDED NOTICE OF DENIAL OF ADMISSION TO PUBLIC HOUSING AND
DENIAL OF REASONABLE ACCOMMODATION**

Dear Mr. Stoick:

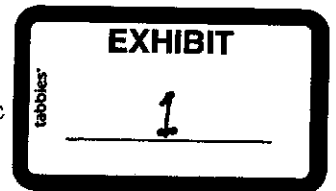
The Minneapolis Public Housing Authority (MPHA) completed its investigation regarding your application for public housing and reviewed your request for a Reasonable Accommodation. MPHA reviewed your entire application file and the information gathered during your interviews, which may include:

- | | |
|---------------------------------------|-------------------------------|
| Chemical Dependency Treatment Records | Landlord Verification Records |
| Credit History | Letters of Recommendation |
| Criminal History | Residential History |
| Application | Unlawful Detainer Records |
| Other _____ | |

APPLICATION DENIAL:

Based upon this investigation, MPHA is denying your application for admission to public housing for the following reasons:

1. You indicated on your application and during your interview that you had committed, were arrested for, were found guilty of, or had pled guilty to the following:
 - a. You attached a copy of your MNCIS Criminal/Traffic/Petty Case Records which lists the following crimes:



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08/19/85	Aggravated Driving Violation
01/13/87	DWI Snowmobile
03/06/89	DWI
	Aggravated Driving Violation
	Driving without Insurance
	Unregistered Vehicle
03/08/95	Fifth-Degree Assault
02/27/96	Indecent Exposure
08/19/96	Disorderly Conduct
12/24/96	Trespassing
12/31/96	Trespassing School Property
01/08/97	Trespassing
03/31/97	Trespassing
07/28/97	Indecent Exposure
06/22/98	Indecent Exposure
09/10/98	Indecent Exposure
10/09/98	Indecent Exposure
06/01/99	Indecent Exposure
10/08/99	Disorderly Conduct
08/28/01	Disorderly Conduct
09/17/02	Trespassing
08/01/05	Obstruct Legal Process
08/16/05	Obstruct Legal Process
	Indecent Exposure
07/31/06	Loitering with Open Bottle
	Consumption in Public
11/12/07	Loitering with Open Bottle

2. Based upon your criminal history, MPHA determined that you were arrested for, were charged with, plead guilty to, or were convicted of nine (9) incidents which you did not disclose on your application. The nine crimes which you did not disclose are listed below:

10/13/85	Aggravated Violation – DL Susp/Cancel/Revoked Denied
	Count 1 DWI
	Count 2 DWI
09/15/87	Fifth-Degree Assault
04/04/98	Possession of Burglary Tools
09/04/02	Felony Burglary
08/08/03	Disorderly Conduct
02/25/09	Riding Public Transit without Paying
02/25/09	Loitering with an Open Bottle

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3. You were on probation for Indecent Exposure/Lewdness or to Procure Another to Expose in Presence of Minor under 16 (offense date 6/25/2005) until 9/12/2008. This conduct appears to be a gross misdemeanor. While indecent exposure is not on MPHA's screening guidelines, MPHA has determined that an appropriate length of time after completion of your probation is two years. This is based upon MPHA's screening guidelines for other gross misdemeanor crimes, the repetitive nature of your conduct and the length of your probation. Accordingly, you do not meet MPHA criteria for admission until 9/12/2010.
4. Based upon your criminal history, MPHA determined that you have a pattern of criminal behavior that warrants denial of your application.

In a letter dated April 23, 2009, MPHA gave you the opportunity to contest the accuracy of your criminal history records. You did not contest the accuracy of the records and did not provide evidence that you contacted the BCA to contest the accuracy of their records.

5. You did not disclose on your application or during your interview the use of the following alias names. These alias names were listed on your BCA report.
 1. John Dwight Stack
 2. Michael Steven Perra
 3. John D. Stoick
6. According to MPHA Statement of Policies (SOP) Tenant Selection Criteria, page 18:
 - 3) A. The history of applicant's conduct must demonstrate capability of compliance with the terms of the MPHA lease, with or without assistance. The applicant shall prove at the time of admission that the applicant family is not likely to:
 - 1) Interfere with other residents, neighbors or MPHA staff in such a manner which may adversely affect their peaceful enjoyment of the premises, or their health, safety, or welfare;
 - 3) Violate the terms and conditions of the lease.
 - 3) B. A record of any of the conduct listed below may be cause for MPHA to immediately deny admission to the Applicant Family.
 - 3) Involvement in any criminal activity, other activity or a history of criminal acts including drug-related criminal activity, which MPHA determines may adversely affect the health, safety, or welfare of other tenants, neighbors, or MPHA staff, contractors or subcontractors.

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- 4) Illegal use or pattern of use of a drug or controlled substance and abuse or pattern of abuse of alcohol which MPHA determines may interfere with the health, safety, or the right to peaceful enjoyment of the premises by other residents, neighbors or MPHA staff.
 - 10) Any material misrepresentation relevant to the application process discovered at any time prior to signing the lease.
 - 12) Failure to provide written, accurate, current, objective and verifiable information regarding income, assets, family composition, childcare, alcohol abuse, illegal drug use or criminal activity.
7. You did not provide true or accurate information about your criminal history or alias names on your application or during your interviews. According to MPHA's Statement of Policies your "failure to provide written accurate, current, objective and verifiable information" is sufficient cause for denial.
 8. Your signed application, dated 12/26/08, states that "I/we understand that false statements or information are grounds for denial or termination of housing assistance and termination of tenancy."
 9. Pursuant to U.S. Department of Housing and Urban Development Notice PIH 2009-35(HA), "if the applicant withholds or falsifies information on the application, the PHA must deny admission to the program."

REASONABLE ACCOMMODATION DENIAL:

MPHA reviewed your request for a reasonable accommodation and your Health Provider's Verification Form and letter signed by James Bunde, PhD and dated August 26, 2009. MPHA also reviewed a letter submitted on your behalf by your attorneys, dated September 1, 2009. You request that MPHA "discount" your criminal history as reason for denying your application because your conduct resulted from untreated depression and substance dependence.

Dr. Bunde wrote that it is his "opinion that [your] legal history is a direct result of many years of untreated major depression, manifesting itself in substance dependence and related difficulties." Dr. Bunde further wrote that due to recent treatments, your psychological stability has improved and you report "sobriety from drugs and alcohol, and [he has] no reason to doubt this assertion."

John Stoick
September 24, 2009
Page 5

There is no evidence that Dr. Bunde reviewed your criminal records or that he has the foundation to state that your specific conduct on a specific date was due to depression and/or substance abuse. There is no evidence that Dr. Bunde knew whether during each criminal incident you were experiencing symptoms of depression or were under the influence of alcohol or another substance. Dr. Bunde also provides no evidence that if you were experiencing these symptoms, they caused you to commit crimes such as burglary, indecent exposure, disorderly conduct, trespass and assault. In short, there is not a sufficient nexus between your disability and your criminal history.

Furthermore, you began treatment with Dr. Bunde in November of 2007. Dr. Bunde states that you report sobriety and he has no reason to doubt this assertion. However, you were arrested for loitering with an open bottle and public consumption on or about January 13, 2009. Dr. Bunde's assertion that your criminal activity is the result of untreated depression is not credible, nor is your assertion that you are not drinking alcohol.

Also, you signed your application on December 26, 2008. Your disabilities do not explain your failure to accurately disclose your criminal history. You also did not provide an explanation for use of alias names and your failure to disclose them on your application.

Under MPHA's Reasonable Accommodation Policy, MPHA agrees that your diagnosis of depression is a disability. However, MPHA does not agree that alcoholism is a disability for purposes of admission to housing. Even if it did agree that alcoholism is a disability, MPHA would deny your request because you have not demonstrated any connection between the crimes you committed or were arrested for and your claims of alcoholism or depression.

Under SOP Section 3.8 you must show that you can comply with essential eligibility requirements which include no disqualifying criminal activity. You have a history of criminal activity that is not explained by your disability and you were arrested for similar activity after you had been receiving treatment for over a year.

Furthermore, as stated in Section 16, you must comply with MPHA's rules, policies and procedures which include providing accurate and truthful information. You did not provide accurate information on your application and claim that your criminal history is the result of untreated depression and alcohol abuse. You also claim you are sober but were arrested for loitering with an open container of alcohol last winter.

Aside from not complying with Sections 3.8, 5.2 and 16 of MPHA's Reasonable Accommodation Policy, MPHA also denies your request for reasons stated in Section 5.3 which include:

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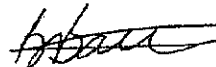
- (b) your accommodation would fundamentally change the nature of the public housing program, which prohibits criminal activity and requires honesty in providing information;
- (c) the accommodation would pose a direct threat to others' health and safety when you have a history of arrests for indecent exposure, assault, burglary, trespassing and disorderly conduct.
- (d) you cannot meet the essential eligibility requirements of the program which include no criminal activity and honesty in providing information.
- (f) your request is not a request for a reasonable accommodation and (j) is based upon a personal preference in that you want MPHA to waive your criminal history and lack of honesty; and
- (h) there is a lack of documentation that you were experiencing symptoms of depression and alcohol dependence on the dates of your criminal incidents.

For all the foregoing reasons, MPHA is denying your application to housing and your request for a reasonable accommodation. If you think MPHA made a mistake, you have the right to request an Informal Hearing. You must request a hearing in writing within the next ten (10) working days. You must return the request to MPHA by October 8, 2009.

You may request a hearing by completing the enclosed form or a written request for a hearing and return to:

Minneapolis Public Housing Authority
ATTN: Leasing Clerk
Leasing & Occupancy Department
1001 Washington Avenue North
Minneapolis, Minnesota 55401-1043

Sincerely,



Betty Battle
Manager of Leasing and Occupancy

Enclosure

cc: Dorinda Wider, Esq.

IF YOU DISAGREE WITH THIS DECISION

If you think we have made a mistake, you have the right to question our decision. You can do this by requesting, in writing, an informal hearing.

TIME TO APPEAL

You must provide a written request for a hearing within ten (10) working days from the date of this notice. You must make the request in writing and your request must be received at the following address:

MINNEAPOLIS PUBLIC HOUSING AUTHORITY
ATTENTION: DATA ENTRY
LEASING AND OCCUPANCY DEPARTMENT
MINNEAPOLIS MN 55401

This request **MUST** be received by 4:30 October 8, 2009

INFORMAL HEARING

You have the following rights:

1. An MPHA Resident Panel who has not been involved in your case will decide your appeal. This group is called the hearing panel.
2. You have the right to be represented by a lawyer or another person at the hearing.
3. You and/or your representative have the right to examine your MPHA file before the hearing. To do this call (612) 342-1390 to schedule an appointment.
4. You have the right to present favorable evidence at the hearing, and have witnesses' testify in your favor.
5. If unfavorable evidence is presented against you at the hearing, you have the right to examine it. If witnesses testify against you, you have the right to question them.
6. The Hearing Panel must notify you in writing of the decision within ten (10) days after the hearing. The decision must be based only on the evidence presented at the hearing, and must state the reasons for the decision.



I _____, am requesting an Appeal Hearing regarding my denial for Public Housing.

SIGNATURE: _____ DATE: _____

PRINT NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SOCIAL SECURITY NUMBER: _____

PHONE NUMBER: () _____

DO YOU NEED AN INTERPRETER: _____ LANGUAGE: _____

WILL YOU BE REPRESENTED BY A LAWYER: _____

FOR MPHA USE ONLY

DATE OF DENIAL LETTER: 9-24-09

REQUEST MUST BE RECEIVED BY: 10-8-09

Minneapolis Public Housing Authority
Application for Low Rent Housing

Legal Name: JOHN DWIGHT STOICK ✓
 Alias/Nicknames: _____ Maiden Name: _____
 Address: 10002 CURRIE AV N. Apt. #: _____
 City: MPLES State: MN Zip: 55423
 Phone: (612) 240-3212 Message or work phone (651) 637-1345
 Cell 763-267-8183 (Cell)

I. Names of persons to be contacted if you cannot be reached:

Name	Relationship	Address	Phone	Speaks English
TONY PERRA	BROTHER	5317 REGENT AV. N. CRYSTAL, MN 55429	(763) 537-2317	X Yes No
MARGE FAUTSCH	FRIEND	5816 REGENT AV. N. CRYSTAL, MN 55425	(763) 533-7477	X Yes No
GENE BARTZ	FRIEND	5809 REGENT AV. N. CRYSTAL, MN 55429	(763) 533-6024	X Yes No

II. Family Composition - List all persons, including yourself, who will be part of the household:

Names of Family Members Last First Middle	Soc. Sec. No. or Alien Reg. No.	Relation to Family Head	Date of Birth	Age	Sex	Place of Birth
1. STOICK, JOHN DWIGHT	476642808	Head	5-8-54	54	M	ST. PAUL, MN
2.						
3.						

III. Language Survey

- Do you or an adult listed in section II, speak English? Yes No
 If no, do you want free interpreter services during the application process? Yes No If yes, what language? _____
- Do you or an adult listed in section II read English? Yes No
 If no, list the languages you can read _____

IV. General History

- What changes do you expect in the number of persons in your household? (pregnant, person moving in or out of household etc.)
None
- Head of Household is: 1. White 2. African/American 3. American Indian/Alaskan Native
 4. Asian/Pacific Islander Ethnic Group: Hispanic Non-Hispanic
- Has any household member six years of age or under been found to have an elevated lead level? Yes No If yes, name of child (ren) _____ Lead level _____
- Will your public housing household include any members who smoke? Yes No
- Have you or any person listed in Section II EVER lived in public housing or participated in the Section 8 Program? Yes No
- Have you or any person listed in Section II EVER lived with anyone while they lived in public housing or the Section 8 Program? Yes No
- Have you or any person listed in Section II EVER applied for public housing before? Yes No
- Have you or any person listed in Section II EVER been trespassed from any property? Yes No
 If yes, when, where and why?
1990's Club for Meeting in Lindo Lakes, Shelter
- Have you or any person listed in Section II EVER committed, been arrested, found guilty of or plead guilty to a misdemeanor, or felony, or an equivalent crime or an offense anywhere? Yes No
 If yes, where?
SEE ATTACHED

Date(s) of the crime _____

- Have you or any person listed in Section II EVER been evicted or had an Eviction Action filed against you or had a lease terminated for cause? Yes No Couldn't find No work to pay lot rents. Had to get home
 If yes, where and when? PARK OF 4 SEASONS MOBILE HOME PARK - APRIL 2004
- a) Have you paid more than half of your gross income for housing costs (rent + utilities) for the last 3 months? Yes No
- b) Have you or any person listed in Section II moved, or will you have to move because of: a disaster (fire, flood, tornado), government action, physical violence against you or a family member by someone you lived with, or an eviction beyond your control? This does not include eviction for non-payment of rent. Yes No
- c) Does your housing have significant plumbing problems? Yes No
- d) Does your housing lack a toilet that works or either a bathtub or shower inside the unit for private use by your family? Yes No
- e) Does your housing have significant electrical problems? Yes No
- f) Does your housing lack a safe and adequate heating system? Yes No

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- g) Does your housing lack a kitchen? Yes ___ No ___
- h) Has an agency or a unit of government found your housing to be unfit to live in (condemned)? Yes ___ No ___
- 12. What amount do you now pay for: rent \$ _____ utilities \$ _____ } N/A shelter
- 13. Do you share rent? Yes ___ No ___
 What is your portion of the rent? \$ _____ Number of bedrooms in unit? _____
 Number of persons in unit? _____
- 14. Are you being referred by a shelter for abused persons? Yes ___ No
- 15. Have you or any person listed in Section II EVER served in the U.S. Military Yes ___ No ___
 If yes, name of family member JOHN STICK
- 16. Will your household include a CAT or DOG? (Deposit Required) and can not weigh more than 25 lbs or any other pets, if so what kind Manafire Jackson? Yes ___ No ___

Intends to get one when he gets housing.

IV. Rental History

Indicate where you have lived for the past 3 Years (REQUIRED INFORMATION)

- 1) Your present address: 1000 CURRIE AVE N. Date moved in: 2004
 City, State, Zip Code: MPLS, MN 55403
 Landlord Name: _____ Landlord Phone: _____
 Landlord Address: _____
 Landlord City, State, Zip: _____
 What name(s) is (are) on the lease: _____
 Rent paid? \$ _____ /mo.
- 2) Your previous address: 105-111th St. NE Date moved in: 1991
 City, State, Zip Code: BLAINE, MN 55434 Date moved out: 2004
 Landlord Name: _____ Landlord Phone: _____
 Landlord Address: _____
 Landlord City, State, Zip: _____
 What name(s) is (are) on the lease: _____
 Rent paid? \$ _____ /mo.
- 3) Your previous address _____ Date moved in: _____
 City, State, Zip Code: _____ Date moved out: _____
 Landlord Name: _____ Landlord Phone: _____
 Landlord Address: _____
 Landlord City, State, Zip: _____
 What name(s) is (are) on the lease: _____
 Rent paid? \$ _____ /mo.
- 4) Your previous address _____ Date moved in: _____
 City, State, Zip Code: _____ Date moved out: _____
 Landlord Name: _____ Landlord Phone: _____
 Landlord Address: _____
 Landlord City, State, Zip: _____
 What name(s) is (are) on the lease: _____
 Rent paid? \$ _____ /mo.
- 5) Your previous address _____ Date moved in: _____
 City, State, Zip Code: _____ Date moved out: _____
 Landlord Name: _____ Landlord Phone: _____
 Landlord Address: _____
 Landlord City, State, Zip: _____
 What name(s) is (are) on the lease: _____
 Rent paid? \$ _____ /mo.

V. Potential Adjustments in Rent

- 1. Is any member of your household a full-time student 18 years of age or older? Yes ___ No

If yes, list name(s): _____

2. Do you pay for child care while a family member is employed or attending school? Yes No

If yes, list child care provider's Name: _____

Address, zip code: _____ Phone: _____

Child care cost per week \$ _____ per month \$ _____

3. Are you receiving Medicare benefits? Yes No

4. Are you receiving Medical Assistance through the welfare department? Yes No

5. Do you pay any medical insurance/hospitalization (such as Blue Cross, etc.)? Yes No

If yes, how often and how much: \$ _____ per _____

Is this a payroll deduction? Yes No

6. Are you making payments on outstanding medical bills? Yes No

To whom? _____

Amount per month? \$ _____

7. Do you have expenses related to a disability that are necessary for your employment? Yes No

If yes, explain: _____

8. Do you take prescription drugs on a regular basis? Yes No *Through VA*

If yes, list name and address of pharmacy: _____

9. Do you anticipate any health care related expenses in the next 12 months that are not covered by health insurance? ~~Yes~~ No

If yes, explain: Co-PAYS

VI. Income

List all full- and/or part-time employment for all household members
Include earnings from self-employment

Household Member	Name and Address of Employer	Gross Earnings
JOHN STEICK	AAA DAILY LABOR - Chicago Av. 5.	

List all other sources of household income

Examples of other income include welfare (must include last case number or control number and place); social security; SSI; disability compensation; child care; alimony; child support; dividends; income from rental property; armed forces reserves; scholarships; grants; and business income.

Household Member	Source	Gross Income

Provide a full and complete list of all assets of household members
Savings and checking accounts, savings certificates, credit union

Asset	Approx. Value	Financial Institution/Address (If applicable)	Account No. (If applicable)
Cash on hand (over \$100)	0		
Checking accounts	0		
Savings accounts	0		
Certificate of Deposit	0		

Asset	Approx. Value	Financial Institution/Address (If applicable)	Account No. (If applicable)
Life Insurance (not term)	00		
Stocks/Bonds/Mutual Funds	0		
Annuities	0		
Money Market Funds	0		
IRA Accounts	0		
US Savings Bonds	0		
Real Estate	0		
Business	0		

Have you disposed of any assets for less than fair market value in the past two years? Yes No
 If yes, date of disposal of asset _____ amount received \$ _____
 Market value at time of disposal \$ _____

VII. Certification

I/we understand that this is not a contract and does not bind either party. I/we hereby certify that the information given to the Minneapolis Public Housing Authority is accurate and complete to the best of my/our knowledge and belief. I/we understand that false statements or information are grounds for denial or termination of housing assistance and termination of tenancy.

WARNING: Section 1001 of Title 18 of the U.S. code makes it a criminal offense to make willful false statements or misrepresentation to any department or agency of the U.S. as to any matter within its jurisdiction.

Signature of Applicant: *John O. Smith* Date: 12-26-08
 Signature of other household members 18 years of age or older: _____ Date: _____
 _____ Date: _____

Do Not Write Below - For Office Use only

Interviewed by: *Elaine Sheissen* Date: 12/29/08
 Preference Points: 10
 Rent over 1/2 gross income _____ Displaced _____ Substandard _____
 Resident/working in Mpls. _____ Veteran 1 Single, near elderly 1.5
 Student _____ Family Self Sufficiency _____
 Eligible by Income? Yes _____ No _____

- d. Hennepin County Department of Human Services and Minnesota Department of Revenue;
 - e. Schools;
 - f. A local fire department, paramedic service, medical examiner, or other emergency vendor responding to an emergency situation that requires the sharing of information;
 - g. Local utility companies for gas, electricity and phone and cable TV company if you are receiving cable TV services;
 - h. U.S. Post Office, U.S. Census Bureau and Internal Revenue Service;
 - i. Security companies and their employees under contract with MPHA and security guards hired by MPHA; and
 - j. U.S. Department of Housing and Urban Development (HUD) and other public housing agencies.
8. Your social security number, date of birth, emergency contact name, medications, medical history diagnosis, tenancy history will be disclosed to state and local health, welfare, child protection, adult protection agencies or departments, social service organization or VOAOM/SR, when MPHA determines there is a reasonable belief that you or a member of your household is at risk of harm, will harm others or harm MPHA property.
9. Any information regarding your participation in or application to a MPHA program will be disclosed to U.S. Department of Housing and Urban Development (HUD) and other public housing agencies when MPHA has reasonable cause to believe that you are violating federal law or regulation, your lease or other contract with MPHA.
10. You, your authorized representative or legal guardian may request, review and receive a copy of the information MPHA keeps if the information is public or is private and about you. While there is no cost to review the public and private data information, MPHA may charge the actual cost incurred in providing a copy of the information to you.
11. You may contest the accuracy and completeness of the public or private information about you. Please write to MPHA describing your concern. MPHA will respond to your letter within 30 days as Minn. Stat. § 13.04 sub. 4 provides. Send your request to:

Carol Kubic, Director of Legal Services
Minneapolis Public Housing Authority
1001 Washington Avenue North
Minneapolis, MN 55401

12. If you have any questions about your data privacy rights, please contact the Director of Legal Services, your public housing manager, if you are a public housing resident, the Leasing office Manager, if you are applicant for public housing or the Manager of Section 8 if you are an applicant or participant in the Section 8 program.
13. I received a copy of this document and had an opportunity to read it and to ask questions about my rights.

12-26-08
Date

John D. Storch
Signature

RIGHT TO KNOW
(Revised October 31, 2007)

The Minnesota Government Data Practices Act (Minn. Stat. §§ 13.01 to 13.99) says you have the right to know the following about the information you give to MPHA.

1. Information about you may be public, private or confidential. Public information is available to the public. Private information is not available to the public but is available to you. Confidential information is not available to the public or to you.
2. MPHA may ask for information about your income, expenses, assets, childcare, family composition, criminal history, drug treatment records, fingerprints and other information as state, local and federal law or regulation require.
3. The purpose of the information is to:
 - a. Determine if you are eligible to participate or to continue to participate in an MPHA program;
 - b. Determine the amount of rent you will pay;
 - c. Maintain and/or upgrade MPHA's housing stock;
 - d. Determine if you are lease and/or program compliant;
 - e. Provide safe premises free of criminal, violent or other activity that may threaten the health, safety, or right to the peaceful enjoyment of the premises by tenants, MPHA's employees or neighbors;
 - f. Provide safe premises free of violent or drug-related criminal activity on or off the premises by a tenant, a member of the tenant's household, a person under the tenant's control or a guest of the tenant; or
 - g. Comply with state, local and federal law, ordinance or regulation.
4. Drug treatment, criminal history and registered sex offender records will be collected, used and destroyed as MPHA's Criminal, Drug Treatment and Registered Sex Offender Records Management Policy provides. All other information about you will be a permanent part of MPHA's record keeping. This permanent information may be used to screen, to pursue evictions, for court proceedings or for administrative hearings.
5. You may refuse to provide the information. However, if you refuse to provide the information, MPHA may deny your application, evict you or stop your continued participation in an MPHA program.
6. If you supply the information, MPHA may have grounds to deny your application, evict you or stop your continued participation in an MPHA program.
7. Your name, sex, address and age and the name, address and age of your household members or guests will be disclosed to the following when it involves lease enforcement, sound property management practices or the administration of MPHA's low rent income housing, Section 8 or other programs:
 - a. MPHA's employees, people who work with MPHA, your Section 8 landlord and volunteers who help you or MPHA;
 - b. The Minneapolis Police Department when it will assist in the investigation of illegal activity or when MPHA has a contract with the Department;
 - c. Health or human service agencies or organizations;

PART XXI**REASONABLE ACCOMMODATION POLICY****1.0 Purpose**

The purpose of this policy is to assist Minneapolis Public Housing Authority (MPHA) staff in providing reasonable accommodations to its applicants, public housing residents, Section 8 participants and other program recipients with a disability. It does not enlarge MPHA's duty under any law, regulation or ordinance. Where in conflict, the applicable law, regulation or ordinance shall prevail.

2.0 Mission Statement

MPHA's policy is to comply with the Rehabilitation Act, § 504 29 U.S.C. § 794, as implemented by 24 C.F.R. § 8, Americans with Disabilities Act, 42 U.S.C. § 2101 as implemented by 28 C.F.R. § 35 and 29 C.F.R. § 1630, Fair Housing Act, 42 U.S.C. § 3601 as implemented by 24 C.F.R. §100, Minnesota Human Rights Act, Minn. Stat. § 363 and Minneapolis Civil Rights Ordinance.

MPHA shall not discriminate or retaliate against an applicant, public housing resident, Section 8 participant or other program recipient because of disability, race, color, creed, religion, national origin or ancestry, familial status, sex, sexual preference, veteran status, public assistance status, marital status, age, or political affiliation. MPHA shall not retaliate against a person who claims discrimination. MPHA shall not solely on the basis of a disability, deny benefits to an otherwise qualified person. MPHA shall give a qualified person with a disability through a reasonable accommodation an equal opportunity to participate in and benefit from its housing, aid, benefit or service.

By means of a reasonable accommodation, MPHA shall give a qualified person with a disability housing, aid, benefit or service that is equally effective as that provided to others without a disability. The term "equally effective" is not intended to produce an identical result or level of achievement as a person without a disability but is intended to give a person with a disability an equal opportunity to obtain the same result or level of achievement.

3.0 Disability**3.1 A Person With A Disability Is One Who:**

1. Has a physical or mental impairment that substantially or as regards the Minnesota Human Rights Act and Minneapolis Ordinances materially limits one or more major life activity;
2. Has a record of such impairment; or

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3. Is regarded as having such impairment.

3.2 Specifically, excluded from the definition of a disability under the Americans with Disabilities Act are:

- a.) Sexual behavior disorders such as transvestitism, pedophilia, exhibitionism and voyeurism.
- b.) Compulsive gamblers, kleptomaniacs or pyromaniacs.
- c.) Homosexuality, bisexuality, gender disorders and transsexual conduct

3.3 Under the Americans with Disabilities Act, the disability must be current and substantially limit one or more major life activity. Under certain circumstances, physical conditions such as high blood pressure and poor vision, which are corrected by medication or another measure, are not disabilities.

3.4 Under 24 CFR § 100.201 (a)(2), a disability does not include the current illegal use of or addiction to a controlled substance. Also, being a transvestite is not a disability. Also, for purposes of eligibility for low-income housing a person does not have a disability solely based on any drug or alcohol dependence.

3.5 **Major Life Activity**

Includes but is not limited to caring for one's self, doing manual tasks, walking, seeing, sleeping, hearing, speaking, breathing, learning and working.

3.6 **Mental and Physical Impairments**

A mental impairment may include but is not limited to mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

A physical impairment may include the following body systems: neurological; musculoskeletal; senses; respiratory; cardiovascular; reproductive, digestive, genito-urinary, hemic and lymphatic; skin; and endocrine.

A mental or physical impairment may include but is not limited to cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, and mental retardation.

3.7 **A Qualified Person With A Disability**

One who meets the essential eligibility requirements and who can achieve the purpose of the program or activity with or without modifications.

3.8 **Essential Eligibility Requirements**

Include but are not limited to: stated eligibility requirements like income; compliance with selection criteria; timely payment of financial obligations; care of premises; no disqualifying criminal or drug

activities; respect for the rights of others; explicit or implicit requirements inherent to the program or activity; and compliance with all obligations of occupancy with or without supportive services provided by persons other than MPHA. A person may request a reasonable accommodation to meet the essential eligibility requirements. For instance, a mentally ill person whose conduct even with a reasonable accommodation poses a significant risk of substantial interference with the health, safety or peaceful enjoyment of the premises, or would result in substantial physical damage to the property of others, may not be qualified for a project or program lacking the necessary supportive services.

3.9 Exclusions

A person with a disability may be excluded if the person is not "otherwise qualified" for housing or when a person's tenancy with or without a reasonable accommodation would pose a direct threat to others or the person's own health or safety or would result in substantial physical damage to the property of others.

3.10 Undue Hardship

MPHA has the burden to show that the reasonable accommodation would result in an undue hardship. An undue hardship is a significant difficulty or expense or undue financial or administrative burden.

4.0 Reasonable Accommodation

4.1 Need for a Reasonable Accommodation and Nexus Between the Disability and Accommodation

A reasonable accommodation may include a transfer, an alteration to the home or housing complex or an exception to MPHA's rules, policies or procedures. While MPHA may accept the judgment of the person with the disability that an accommodation is needed, MPHA may require the person to show the need for an accommodation. Also, MPHA may investigate alternatives to the requested accommodation and/or alternative methods of providing the requested accommodation. MPHA will select an appropriate accommodation which is most convenient and cost effective for MPHA.

The person with the disability has the burden to show that there is a connection between the disability and the accommodation and a connection between the disability and the lease violation. The person must also show that the accommodation is likely to enable the person to comply with the lease or the program and that the person will accept the necessary assistance.

However, MPHA cannot amend the lease or the program requiring the person to accept such services. MPHA may evict or deny admission to the program if the rejection of the services results in conduct that violates the lease or program. For example, MPHA may not evict a tenant for not taking a medication, but may evict the tenant for conduct resulting in serious or repeated lease violations resulting from not taking the medication.

4.2 Reasons To Deny An Accommodation

MPHA shall make a reasonable accommodation for a physical or mental impairment of a qualified applicant or recipient unless MPHA shows that:

- (a) the accommodation would impose an undue financial or administrative burden;
- (b) the accommodation will fundamentally change the nature of the program;
- (c) the accommodation would pose a direct threat to others or the person's own health or safety;
- (d) the accommodation would result in substantial physical damage to MPHA's property or the property of others;
- (e) the person cannot meet the essential eligibility requirements;
- (f) the request is not a request for a reasonable accommodation;
- (g) there is a lack of documentation of the disability;
- (h) the documentation of the disability lacks credibility or foundation;
- (i) the accommodation has failed in the past and the person can not show new circumstances as to why the accommodation will likely work in the future;
- (j) the request is based upon a personal preference; or
- (k) other reasons as provided by law or regulation.

For instance, a reasonable accommodation is not a personal preference. A personal preference is the liking of something over another. In addition, a reasonable accommodation does not require MPHA to provide counseling, medical or social services that are outside the scope of services provided to other persons.

MPHA may also deny a request for a reasonable accommodation if the person does not show a nexus between the disability and the accommodation.

5.0 Communication Accommodations

MPHA shall make reasonable accommodations to communicate with applicants, public housing residents, Section 8 participants, other program recipients and members of the public. Reasonable accommodations may include using auxiliary aids such as interpreters for applicants, Braille materials, large print materials, audio tapes, note takers or telecommunication devices for deaf persons. MPHA is not required to provide devices that are of a personal nature or that are prescribed for personal use or study.

6.0 Application Process

During the application process, MPHA may ask all applicants the same appropriate questions. An applicant is not required to talk about a disability. However, MPHA may ask an applicant to verify a disability if the applicant asks for a reasonable accommodation. MPHA shall not assume that a person has a disability.

An applicant may refuse to explain negative information because it may reveal the existence, nature or severity of a disability. The applicant has the right not to discuss the disability. However, MPHA may have the right to deny admission because of a lack of information or negative information.

If an applicant requests a reasonable accommodation, the applicant has the burden to show that the accommodation is likely to enable the applicant to comply with the lease and that the applicant will accept necessary assistance. MPHA may make it a condition of an applicant's admission to accept supportive services or attend a self-help group or rehabilitation program if the applicant's history warrants. However, MPHA cannot amend the lease or program to require the person to accept such services but may evict or deny admission if the rejection of the services results in conduct that violates the lease or program.

7.0 Physical Accessibility

Where practicable, MPHA's buildings will be physically accessible and usable by disabled persons. With each physical alteration, a cost base analysis may be needed. Cost base factors include but are not limited to the type of accommodations, cost, the size of MPHA's overall housing business, number of units, type of units, budget, expenses and ability to recoup the cost.

Alterations in new construction shall comply with federal and state law and regulations. MPHA will comply with Sections 4.0 and 4.1 in determining whether to grant a physical accommodation. If a physical accommodation is unreasonable, MPHA may provide for program access at a different accessible location.

8.0 Barrier Free Units

It is MPHA's goal to provide barrier free units for persons with mobility-impairments of at least 5% of the total number of the units in each project as follows:

- 8.1 In new construction 5% of the units will be barrier free and an additional 2% will be accessible for the hearing or sight-impaired. MPHA will comply with accessibility standards as provided by the Uniform Federal Accessibility Standards, 24 C.F.R. § 40, Appendix A and the Americans with Disabilities Act Accessibility Guidelines.
- 8.2 If the rehabilitation of existing projects is 75% or more of the replacement cost of the completed facility, 5% of the units will be barrier free and as needed, equipment for the hearing or sight impaired will be installed.

- 8.3 Alteration work in a dwelling unit that does not exceed 75% of the replacement cost of the completed facility, but is substantial in nature as determined by MPHA, will include the conversion of 5% of the units to barrier free at the time of construction.
- 8.4 Buildings receiving modernization work resulting in substantial work in the units which does not exceed 75% of the cost of the unit and with existing programs that service the disabled or frail elderly, the number of handicapped units may exceed 5% at MPHA's discretion.
- 8.5 Consistent with the provisions of this policy, barrier free units may be created to meet the specific needs of a resident in a building.

9.0 Accessible Units For Hearing and Sight Impaired

MPHA will modify units to reasonably accommodate residents with hearing or sight impairments consistent with the provisions of this policy.

10.0 Barrier Free Common Areas and Non-Dwelling Areas

It is MPHA's goal to achieve barrier free common areas and non-dwelling sites. Non-dwelling areas within a building, which are not accessible, will be modified to meet accessibility requirements when the building undergoes comprehensive modernization or when making a reasonable accommodation.

11.0 Resident Transfer To Another Unit

11.1 When MPHA determines that a transfer is appropriate as a reasonable accommodation to a person with a disability, MPHA will offer two suitable units to the resident. If MPHA determines that the refusals are not due to the disability, MPHA will cancel the transfer.

11.2 MPHA will offer a transfer or modification to a resident in the priority listed below.

1. First if available, MPHA will offer to the resident a unit in the same project.
2. Second if available, MPHA will offer to the resident, a unit in any building. If a unit is not available, the resident will be placed on a waiting list for a reasonable period of time.
3. Third, MPHA may modify the resident's current unit consistent with the provisions of this policy.
4. Fourth, MPHA will offer the resident a Section 8 voucher.

12.0 Disabled Applicants On The Waiting List

MPHA will offer a unit to a disabled applicant who is qualified and needs a modified unit in the priority listed below:

12.1 When the qualified applicant is on the waiting list and when an appropriate modified unit is available and no tenant in the building needs the features of the unit.

- 12.2 When a qualified applicant is at the top of the waiting list, and an appropriate modified unit is not available, MPHA may modify a unit consistent with the provisions of this policy.
- 12.3 If an appropriate modified unit becomes available and no disabled applicant is on the waiting list and no tenant in the building needs the modified unit, the unit will be offered to the next qualified applicant on the waiting list. However, if the modified unit is needed for a disabled applicant or resident, the occupant in the unit shall vacate and transfer to another unit. The transferred tenant is entitled to due process.

13.0 Program Accessibility

MPHA will make reasonable accommodations for qualified persons with disabilities to have access and use its programs. Except when necessary to maintain the fundamental nature of the program, MPHA will not use the eligibility criteria, which adversely impacts upon disabled persons.

14.0 Section 8

When issuing a housing voucher to a family with a disabled person, MPHA shall include a current listing of available accessible units known to it. If necessary, MPHA will offer other assistance to the family in locating an available accessible dwelling unit. MPHA shall consider the special problems of a disabled person in locating accessible housing when considering requests for extensions of housing vouchers.

If necessary, MPHA shall request an exception to fair market rents to allow a Section 8 voucher holder to rent an accessible unit.

15.0 A Disabled Person's Compliance with MPHA's Rules, Policies or Procedures.

A reasonable accommodation may include an exception to MPHA's rules, policies and procedures. If an applicant or recipient can show that the failure to comply with a rule, policy or procedure was due to a disability, MPHA may reinstate the person's status. This may include reinstating the person to a waiting list at an original spot or setting aside the termination or eviction procedures.

An exception to MPHA's rules, procedures and policies does not require a lowering or a waiver of the essential requirements of a lease or program. If a tenant refuses services or another reasonable accommodation, and violating conduct continues, MPHA may take the same action as it would with a person without a disability.

A disabled person is required to show documentation of the disability and the need for the accommodation. Without such documentation, MPHA need not offer an accommodation such as a companion or service animal. If MPHA allows a disabled person to have a companion or service animal, the person must maintain health and safety standards in keeping the animal. Animals that are dangerous or potentially dangerous under federal law or regulation, state law or local ordinance are not permitted.

16.0 Grievances

If MPHA denies a request for a reasonable accommodation MPHA will offer the person the opportunity to request the grievance procedure as provided in in the grievance procedures as explained in the SOP or Section 8 Program Administrative Plan.

17.0 Amendment

The Executive Director may amend this policy when it is reasonably necessary to effectuate its intent, purpose or interpretation. The proposed amendment along with the rationale for the amendment shall be submitted to the Executive Director for consideration. Where reasonably necessary, the Executive Director may approve the amendment. The amendment shall be effective and incorporated herein on the date that the Executive Director signs the amendment.

18.0 Conflict and Scope

This Policy does not enlarge MPHA's duty under any law, regulation or ordinance. If this Policy conflicts with applicable law, regulation or ordinance, the applicable law, regulation or ordinance shall prevail. This Policy is incorporated into MPHA's Statement of Policies and Section 8 Administration Plan. If this Policy conflicts with another MPHA Policy such as its Statement of Policies or Section 8 Administration Plan, this Policy will prevail. This Policy shall apply to all MPHA programs designed to provide financial or advisory assistance to persons seeking housing, including the Family Self Sufficiency Program and Housing Counseling Programs.

MPHA APPLICANT SCREENING GUIDELINES

In compliance with federal regulations 24 C.F.R. § 960.205(d), MPHA has given consideration “to the time, nature, and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects.”

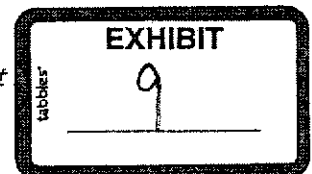
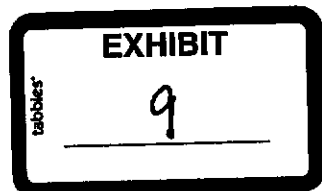
MPHA will not consider the crimes after the elapsed timeframe listed below except for lifetime bans, if the crime is the sole reason for denying admission to low income housing. This chart does not limit or otherwise impact other MPHA screening criteria that consider past, present and/or likely future behavioral, financial, and personal conduct.

If a crime found on an applicant’s criminal background check is not included on this list, MPHA will determine the appropriate length of time after sentence completion before the applicant meets MPHA’s criteria for admission. MPHA may consider a similar crime on the list, the offending conduct and the length of the sentence.

Definition of Sentence is the punishment ordered by the court to be imposed upon a person convicted of a crime and includes the time on probation and parole.

Definition of a Conviction is the final judgment including but not limited to a finding of guilty or a plea of guilty or nolo contendere and does not include a pardon or a reversal.

<u>Criminal Activity</u>	<u>Criteria for Admission</u>
1. Arson	10 years after sentence is complete
2. Assault	
A. Fifth Degree	2 years after sentence is complete
B. Fourth Degree	2 years after sentence is complete
C. Third Degree	2 years after sentence is complete
D. Second Degree	5 years after sentence is complete
E. First Degree	5 years after sentence is complete
3. Burglary	3 years after sentence is complete
4. Child Endangerment	3 years after sentence is complete



5. Damage to Property	1 year after sentence is complete
6. Disorderly Conduct	1 year after sentence is complete
7. Disorderly House	1 year after sentence is complete
8. Domestic Assault	
A. Misdemeanor	2 years after sentence is complete
B. Gross Misdemeanor	2 years after sentence is complete
C. Felony	5 years after sentence is complete
9. Drugs	
A. Intent To Sell/Distribute	5 years after sentence is complete
B. Loitering with Intent	2 years after sentence is complete
C. Manufacture of Meth	Banned for life
D. Possession of Controlled Substance or Paraphernalia	3 years after sentence is complete
10. Eviction or Lease Termination from Housing for Drug-Related Criminal Activity	5 years after eviction or lease termination
11. False Imprisonment	3 years after sentence is complete
12. Fraud	
A. General	2 years after sentence is complete
B. Federal Public Assistance Programs	5 years after sentence is complete
13. Identify Theft	3 years after sentence is complete
14. Interference with an Emergency Call	2 years after sentence is complete
15. Kidnapping	5 years after sentence is complete

16. Malicious Punishment of a Child	3 years after sentence is complete
17. Murder/Manslaughter	5 years after sentence is complete
18. Possession of an Illegal Weapon or Illegal Discharge of Weapon	3 years after sentence is complete
19. Robbery	5 years after sentence is complete
20. Sex Crimes	
A. Criminal Sexual Conduct	5 years after sentence is complete
B. Promoting or Soliciting Prostitution	5 years after sentence is complete
C. Prostitution	3 years after sentence is complete
D. Currently Registered Sex Offender	5 years after registration expires
E. Lifetime Registered Sex Offender	Banned for life
21. Terroristic Threats	2 years after sentence is complete
22. Theft/Shoplifting/Check Forgery, Credit Card Fraud/Related Crimes	
A. \$500 or less or a sentence of 90 days or less	6 months after sentence is complete
B. \$501 to \$1000 or a sentence of 91 to 364 days	1 year after sentence is complete
C. \$1001 to \$5000 or a sentence of 1 to 5 years	2 years after sentence is complete
D. \$5001 or more or a sentence of more than 5 years	3 years after sentence is complete
23. Trespass	Once trespass is removed

DEFINITIONS

1. **ARSON** – The intentional burning of a building, dwelling or structure.
2. **ASSAULT** – An act done with intent to cause fear in another of immediate bodily harm or death. Assault does not necessarily include actual contact.
3. **BURGLARY** – An act when one enters a building or dwelling without permission and with the intent to commit a crime, or enters a building or dwelling without permission and commits a crime while in the building or dwelling.
4. **CHILD ENDANGERMENT**- When one intentionally or recklessly causes or permits a child to be placed in a situation likely to substantially harm the child's physical, mental or emotional health.
5. **CONFLICT OF LAW** – If any applicable law, regulation or ordinance conflicts with these guidelines, the law, regulation or ordinance shall control where applicable. In such cases the remaining portions of the guidelines will remain in effect. Also, to the maximum extent permitted the guidelines shall control.
6. **CONTROLLED SUBSTANCE** – Is defined by 21 U.S.C. § 802 or as amended or renumbered.
7. **CRIMINAL SEXUAL CONDUCT (CSC)** – Engaging in unlawful sexual conduct with another person.
8. **DAMAGE TO PROPERTY** – The act of damaging another's property.
9. **DISORDERLY CONDUCT** – Behavior that tends to disturb the public peace, offends public morals, or risk public safety.
10. **DOMESTIC ASSAULT** – Assault on a family or household member.
11. **DRUG-RELATED CRIMINAL ACTIVITY** – The illegal manufacture, sale, distribution, use, or possession of a controlled substance and includes a petty misdemeanor.
12. **FALSE IMPRISONMENT** – A confinement or restraint of a person to a bounded area without justification or consent.

13. **FRAUD** – A misrepresentation of a present or past fact by false allegations or deception, which causes another to rely upon it.
14. **IDENTITY THEFT** – The fraudulent taking and use of another's identifying or personal data or documents.
15. **INTERFERENCE WITH AN EMERGENCY CALL** – Obstructing or attempting to obstruct another from calling the police, paramedics, or 911.
16. **KIDNAPPING** – The act of seizing and taking away a person without their consent or, if the person is under 16, without the consent of the person's parents or other legal custodian.
17. **MALICIOUS PUNISHMENT OF A CHILD** – Punishing a child in such a way that is almost certain to cause injury, without just cause or excuse.
18. **MANSLAUGHTER** – Criminal negligence or commission of a crime that results in the death of a person.
19. **MURDER** – Unlawful killing of a person, either from an intent to kill or as the result of an act so reckless that it demonstrates a complete lack of regard for human life.
20. **PAROLE** – Release of a prisoner from imprisonment before the full sentence has been served; although not available under some sentences, parole is usually granted for good behavior on the condition that the parolee regularly report to a law enforcement officer for a specified period.
21. **PROBATION** – A court-imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the person criminal to prison.
22. **PROSTITUTION** – Engaging, offering or agreeing to engage in sexual penetration or sexual contact for hire.
23. **ROBBERY** – Taking another's property without the owner's consent by violence or intimidation.
24. **SENTENCE** – The punishment ordered by the court to be imposed upon a person convicted of a crime and includes the time on probation and parole.

- 25. TERRORISTIC THREAT** – A threat to commit any crime of violence with the purpose of terrorizing another or causing the evacuation of a building.
- 26. THEFT** – Taking another’s property without the owner’s consent. Includes but is not limited to theft by deception or trick, embezzlement, larceny, swindling, shoplifting, check forgery and auto theft.
- 27. TRESPASS** – An unlawful interference with one’s property or rights. This may include entering or remaining on another’s property when one knows he is not authorized to be there.