

ADMINISTRATIVE PLAN FOR COMMUNITY HOMES OF BISMARCK, INC.  
to be administered by Burleigh County Housing Authority,  
Contract Manager

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## **STATEMENT OF INTENT**

It is the intent of Community Homes of Bismarck, Inc., hereafter known as CHBI, to provide low cost housing to eligible persons and families. No relationship other than landlord-tenant is created by these rules and guidelines. All disputes will be resolved by the rules herein.

### **PART I – DEFINITIONS**

Activities of Daily Living - A person who engages in any of the following activities including but not limited to:

- \* Bathing
- \* Sleeping
- \* Meals
- \* Storage of personal belongings
- \* Uses the assisted unit's address on any type of public or legal document or in the procurement of goods and services.
- \* Is observed by reliable witnesses to engage in the activities of daily living at the assisted unit's address for more than 7 days in a 30-day period without prior written approval from CHBI.
- \* Reports to the Housing Agency from other public agencies and law enforcement officials that they have provided services and/or have served legal papers to a person at the assisted unit's address.
- \* Uses the assisted unit's address as the person's mailing address and/or as the person's address to law enforcement officials or federal or state courts.

Adjusted Income - Annual Income less:

- A. \$480 for each Dependent;
- B. \$400 for any Elderly Family or Disabled Family;
- C. For any Family that is not an Elderly Family but has a Handicapped or Disabled member other than the head of household or spouse, Handicapped Assistance Expenses in excess of three percent of Annual Income, but this allowance may not exceed the income received by Family members who are 18 years of age or older as a result of the assistance to the Handicapped or Disabled Person;
- D. For any Elderly Family or a Disabled Family:
  - 1. With no Handicapped Assistance Expenses, an allowance for Medical Expenses equal to the amount by which the Medical Expenses exceed three percent of Annual Income;
  - 2. With Handicapped Assistance Expenses greater than or equal to three percent of Annual Income, an allowance for Handicapped Assistance Expenses computed according to paragraph C. of this section, plus an allowance of Medical Expenses that is equal to the Family Medical Expenses;
  - 3. With Handicapped Assistance Expenses less than three percent of Annual Income, an allowance for combined Handicapped Assistance Expenses and Medical Expenses that is equal to the amount by which the sum of these expenses exceed three percent of Annual Income;
- E. For a Family with Dependents, Child Care Expenses which are not reimbursed; and
- F. Earned income of a minor household member who is not the head or spouse.

Annual Income - All amounts, monetary or not, which go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member or, are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and which are not listed as exclusions below.

Annual income includes, but is not limited to, the following:

- A. The full amount, before any payroll deductions, of wages, salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services.
- B. Net income from operation of a business or profession.
- C. Interest, dividends, and net income of any kind from real or personal property. Where the net family assets exceed \$5,000, annual income shall 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 less the costs incurred in disposing of these assets.
- D. The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount **except** the delayed start of a periodic payment of Social Security or Supplemental Security Benefits.
- E. Payments in lieu of earnings, such as unemployment disability compensation, worker's compensation, and severance pay.
- F. The full amount of the Welfare assistance grant excluding amounts specifically received to cover out-of-pocket expenses necessary to participate in education and job training and so specified by the Welfare Agency.
- G. Periodic and determinable allowances, such as alimony, child support and regular contributions or gifts, including amounts received from organizations or from persons not residing in the dwelling.
- H. All regular pay, special pay and allowances (such as longevity, overseas duty, rental allowances, allowances for dependents, etc.) of a member of the Armed Forces (whether or not living in the dwelling) who is head of household, spouse, or other person whose dependents are residing in the unit except as excluded below.
- I. Payments to the head of household for support of a minor or payments nominally to a minor for his/her support but controlled for his/her benefit by the head of household or a Tenant family member other than the head who is responsible for his/her support.
- J. Relocation payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621-4993).
- K. Amounts derived (during the 12-month period) from assets to which any member of the Family has access.
- L. Income from persons permanently confined to a hospital or nursing home. (These persons may not be named as family head, spouse or co-head). The Family may choose to: (a) include the absentee individual as a member of the family and thus include income attributable to such individual as income and take advantage of any allowances to Annual Income for which the individual would qualify; or (b) exclude the absentee individual as a member of the Family and thus not include the income attributable to such individual and not take any of the deductions for which the individual would qualify.

Annual income does not include the following:

- A. Temporary, nonrecurring or sporadic income (including gifts).
- B. Amounts that are specifically received for or in reimbursement of the cost of medical expenses for any family member.
- C. Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation settlements for non-back pay awards), capital gains, and settlement for personal or property losses (these are treated as assets, see above).
- D. The full amount of student financial assistance paid directly to the student or to the educational institution.
- E. The hazardous duty pay to a family member in the Armed Forces away from home and exposed to hostile fire.
- F. Income from employment of children (including foster children) under the age of 18 years.
- G. 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).
- H. Amounts received under training programs funded by HUD.
- I. Amounts received by a person with a disability that are disregarded for a limited time for purposes of SSI eligibility and benefits because they are set aside under a PASS Plan.
- J. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, cloth transportation, child care, etc.) and which are made solely to allow participation in a specific program.
- K. Amounts received under a tenant service stipend.
- L. 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 tenant management staff. Amounts excluded under this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participated in the employment training program.
- M. 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.
- N. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse).
- O. Adoption assistance payments in excess of \$480 per adopted child.
- P. The earnings and benefits to any family member resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988 (42 U.S.C. 1437(t)) or any comparable federal, state, or local law during the exclusion period. For purposes of this exclusion the following definitions apply:
  - 1. Comparable federal, state or local law means a program providing employment training and supportive services that:
    - a. is authorized by a federal, state or local law;
    - b. is funded by the federal, state or local government;
    - c. is operated or administered by a public agency; and
    - d. has as its objective to assist participants in acquiring employment skills;
  - 2. Exclusion period means the period during which the family member participated in a

program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause the exclusion period shall end.

3. Earnings and Benefits mean the “incremental earnings and benefits resulting from a qualifying employment training program or subsequent job”. NOTE: Incremental earnings are the difference between the family member’s current income and benefits and the income and benefits derived from the job training or job.

- Q. Deferred periodic amounts from Social Security and SSI.
- R. 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.
- S. 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.
- T. 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 any program to which the above exclusions apply.

Other 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. The following types of income are subject to such exclusions:

1. The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011-2029);
2. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951-4993); including Green Thumb, Senior Aids and Senior Home Companion employees;
3. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a));
4. 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));
5. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8621-8629);
6. Payments received from programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b));
7. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-2504);
8. The first \$2,000 of per capita shares received each year from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408), or from funds held in trust for an Indian Tribe by the Secretary of Interior (25 U.S.C. 117); and
9. Earnings in excess of \$480 for each full-time student 18 years of age or older, excluding head and spouse.

If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a re-determination at the end of 30 days or an otherwise CHBI-specified shorter period.

Child Care Expenses: Amounts expected to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable head of household or an adult family member to be gainfully employed and/or to further his or her education. The amount deducted shall reflect reasonable charges for child care, and, in the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment.

Dependent: A member of the family (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a disabled person or handicapped person or is a full-time student (does not include full-time student who is head of household or spouse).

Disabled Person: Disabled person means a person who is under a disability as defined in Section 223 or the Social Security Act or in Section 102(5) of the Development Disabilities Services and Facilities Construction Amendments of 1970, or is handicapped as defined in this section or section 504 of the Rehabilitation Act. Section 223 of the Social Security Act defines disability as:

- A. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
- B. In the case of an individual who has attained age 55 and is blind within the meaning of "blindness" as defined in the above regulations; inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time.

Section 102(5) of the Development Disabilities Services and Facilities Construction Amendments of 1970 defines disability as: A disability attributable to mental retardation, cerebral palsy, epilepsy, or other neurological condition of an individual found by the Secretary of Health, Education, and Welfare to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age 18, which has continued or can be expected to continue indefinitely and which constitutes a substantial handicap to such individual.

Effective Date: The "effective date" of an examination or reexamination refers to (a) an examination for admission, the effective date of initial occupancy, and (b) in the reexamination of an existing tenant, the effective date of the re-determined Total Tenant Payment.

Elderly Family: A family whose head or spouse (or sole member) is at least 62 years of age or disabled or handicapped as defined in this section; and may include two or more elderly, disabled, or handicapped persons living together or one or more such persons living with one or more live-in aides determined to be eligible by CHBI and listed by name on the lease.

Elderly Person: A person who is at least 62 years of age.

Eligibility Income: To determine whether a family is income eligible, income shall be determined

according to the definition of annual income in Part I, Item 2.

Evidence of Citizenship or Eligible Immigration Status: The documents which must be submitted to evidence citizenship or eligible immigration status (CFR 912.6(b)).

Family: Family includes a single person or a group of persons.

Full-Time Student: This is a person who is carrying a subject load which is considered full time for the educational institution attended. An educational institution includes a state accredited institution.

Gross Income: Means total annual income as defined in this section.

Handicapped Assistance Expense: Reasonable expenses that are anticipated, during the period for which Annual Income is computed, for attendant care and auxiliary apparatus for a Handicapped or Disabled Family member and that are necessary to enable a Family member to be employed, provided that the expenses are neither paid to a member of the Family nor reimbursed by an outside source.

Handicap: Any condition or characteristic that renders a person an individual with handicaps. Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment or is regarded as having such an impairment.

Head of Household: This is the individual who assumes legal responsibility and responsibility for the behavior of the household determined to be eligible by the PHA and listed by name on the lease.

HUD: The term HUD means the United States Department of Housing and Urban Development.

Live-in Aide: A person who resides with an elderly, disabled, or handicapped person, and,

1. is determined by the PHA to be essential to the required care of the person; and
2. is not obligated to support the person; and
3. would not be living in the unit except to provide necessary support services.

Low-Income Family: A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD determined to be eligible by the PHA and listed by name on the lease.

Medical Expenses: Those medical expenses, including medical insurance premiums, anticipated to be paid during the period for which annual income is computed which are not covered by insurance and are an out-of-pocket expense to the family. (Medical expenses are allowed only for elderly, disabled, or handicapped households. The amount allowable as a deduction is the amount that exceeds three percent of annual income).

Near-elderly: A person who is at least 55 years of age.

Net Family Assets: Value of equity in real property, savings, stocks, bonds, and other forms of capital investment. To determine net family assets, the Housing Authority shall include the value of any assets disposed of by an applicant or Tenant for less than fair market value (including a disposition of trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination. In the case of a disposition of property as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value.

Rent: This is the amount of rent the family will pay to CHBI each month in accordance with Part IV Rent and Rent Collection Policy.

Spouse: The legal husband or wife of the head of the household.

Utilities: Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewer services. Costs for these above-named utilities are included in the rent paid by Tenant.

## **PART II – TENANT SELECTION PLAN**

### **1. Project Eligibility Requirements**

- A. To be eligible for admission, an applicant must qualify as a family.  
For purposes of admission a family may be a single person or group of persons.
- B. US Citizenship Eligibility Requirements  
Only US citizens or eligible non-citizens may receive assistance under Section 8 and/or Section 236 Rent Supplement. All family members, regardless of age, must declare their citizenship or immigration status. Non-citizen applicants will be required to submit evidence of eligible immigration status prior to leasing a unit at CHBI. Applicants who hold a non-citizen student visa are ineligible for assistance, as are any non-citizen family members living with the student.
- C. Applicants must disclose and provide documentation of Social Security Numbers (SSN) for all family members. If a SSN has not been assigned to a particular family member, the applicant must sign a certification. If an applicant does not have the required documentation, the applicant may submit the SSN and certify that the number is accurate. However, the applicant cannot become a participant in the program unless they submit the required SSN documentation. Documentation must be provided within 60 days from the date on which the applicant certified that the documentation was not available.
- D. Student Eligibility Requirements  
To meet the student eligibility requirements as a student enrolled in an institution of higher education you must meet one of the following criteria:
  - a. The individual must be of legal contract age under state law.
  - b. The individual must have established a household separate from parents or legal guardians for at least one year prior to application for occupancy or the

individual meets the U.S. Department of Education’s definition of an independent student, and meets one of the following criteria:

- Be at least 24 years old by December 31 of this year;
  - Be an orphan or a ward of the court through the age of 18;
  - Be a veteran of the U.S. Armed Forces;
  - Have legal dependents other than a spouse (for example, dependent children or an elderly dependent parent and must not be claimed as a dependent pursuant to IRS regulations for the past 12 months)
  - Be a college graduate and pursuing a master’s degree, etc.;
  - Be married; or
  - Be of legal contract age and cannot be claimed as a dependent pursuant to IRS regulations.
- c. The individual must not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations.
- d. The individual must obtain a certification of the amount of financial assistance that will be provided by parents, guardians or others signed by the individual providing the support. This certification is required even if no assistance will be provided. The financial assistance provided by persons not living in the unit is part of annual income that must be verified to determine eligibility and at annual recertification to determine rent.

## 2. Income Limits for Admission

HUD establishes and publishes income limits annually based on family size for each county in the United States based on the median income of the geographic area. To be financially eligible, the applicant's family must provide adequate evidence that the Annual Income for the 12-month period following occupancy is not anticipated to exceed the Income Limits for Admission. (See Appendix D- Income Limits). Income limits for this property are listed below:

Very low-income limit	50% of median income
Extremely low-income limit	30% of median income

## 3. Application Process and Waiting List Procedures:

A. Placement on Waiting List. In order to be placed on the waiting list, an interested family must submit a complete application to CHBI and meet eligibility. Complete applications will be date and time stamped upon receipt in the PHA office and placed on the waiting list in order of date and time received. The complete application will consist of:

1. Application form;
2. HUD Form: HUD-27061-H

3. HUD Form: HUD-92006
4. HUD Forms: HUD-9887 and HUD9887-A
4. Citizens Declaration

All forms requiring applicant signatures must be signed by all adult members of the family listed on the application. If an application is not completed and certified within 90 days from the date the family originally submitted the application, it will be placed in inactive status. All declared information must be verified with documentation which is acceptable to CHBI.

B. Waiting List Maintenance. The waiting list will be maintained for all eligible applicants by unit size and income targeting. A waiting list based on date and time of application will be managed according to:

1. Size of unit, and
2. CHBI will manage the move-ins from the waiting list that has a completed application to assure that: (a) at least 40 percent of the units available will be leased to extremely low income families (income does not exceed 30 percent of median income), and (b) the remainder of the units will be leased to families not exceeding the very low income guidelines (income does not exceed 50 percent of median income). (See Appendix D – Income Limits).

The procedure to comply with the income targeting guidelines set out above is as follows: A continuous income-tracking move-in log will be maintained by staff and once per month this log will be reviewed for compliance with the requirements to admit 40 percent extremely low income families and the remainder of the units to be leased will not exceed the very low income limits. CHBI selects applicants from the waiting list based on the submitted application process.

In the event that new admissions for the present fiscal year fall below the mandatory income guidelines for very low and extremely low income admissions, CHBI may be required to select applicants whose names have come to the top of the waiting list based on their income meeting the extremely low income guidelines rather than strictly by date and time of application.

In the above-defined circumstances selection will be accomplished as follows:

- Applicant will be notified in writing that their name has reached the top of the waiting list and to call and make an appointment within 10 calendar days.
- At the briefing interview it will be determined if the family income is at the very low or extremely low level. If as a result of the briefing interview an applicant's verified income exceeds the allowable very low or extremely low income requirements, the applicant will remain on the waiting list as of their original date and time, and the next individual on the waiting list will be processed.
- This process will continue until CHBI is again in compliance with the mandatory income targeting guidelines.

C. Inactive files. An inactive file will be disposed of three (3) years from the date it was classified as inactive.

D. Ineligible or withdrawn files will be disposed of three (3) years from the date they were classified as ineligible or withdrawn. Terminated tenant files will be disposed of three (3) years after audit.

E. Closing and Opening the Waiting List

When it is determined that the existing waiting list exceeds an adequate pool of applicants to lease all units available for any or all bedroom sizes at CHBI property, CHBI may stop accepting new applications for those bedroom sizes. When it is determined that the existing waiting list no longer is in excess of an adequate pool of applicants, the waiting list may be reopened to take new applications. Both the closing and opening of the waiting list shall be accomplished by placing a public notice in the local newspaper.

F. Applicant Screening Criteria

Elements considered when determining eligibility include, but are not limited to the following:

1. Whether the conduct of the applicant or member of the family in present or prior housing is such that admission could adversely affect the health, safety, or welfare of other Tenants, Authority staff, the physical environment, or the financial stability of the project. A record of any of the following may be sufficient to deny eligibility:

- a. Non-payment of lawful obligations, including rent and utilities.
- b. Disturbance of neighbors.
- c. Destruction of property.
- d. Poor living or housekeeping habits.
- e. Any criminal activity which threatens the health, safety or right to peaceful enjoyment of CHBI's premises by other Tenants or CHBI staff.
- f. Drug-related criminal activity on or off the premises or violent criminal activity.
- g. Reasonable cause to believe that the applicant or member of applicant's family has a pattern of alcohol abuse that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other Tenants.
- h. Reasonable cause to believe that the applicant or the member of the applicant's family has a pattern of controlled substance abuse that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other Tenants.
- i. A record of lease violations and/or excessive damages.
- j. Applicants being investigated or with a record of fraud through another government agency.
- k. An applicant who certifies false statements or information provided to CHBI on application or other documents related to obtaining tenancy through CHBI.

2. To determine eligibility for admission, CHBI shall rely upon sources of information which may include, but are not limited to: CHBI records, third party verifications with previous landlords, employers, parole officers, criminal and court records, medical entities, school records, foreign or tribal records, newspaper articles, or the police and sheriff departments, computer matching with National Crime Information Center, and other law enforcement entities. This information will be used to determine whether the applicant's or applicant family's prior conduct and behavior is likely to interfere

with other tenants or staff to diminish their health, safety or welfare, or be adversely affecting the physical environment or the financial stability of the low-income housing project.

3. If unfavorable information is received, consideration may be given to the time, nature, and extent of the conduct and to factors which indicate a reasonable probability of favorable future conduct.
4. The assisted unit must be the family's sole residence and under no circumstance may any tenant benefit from more than one subsidy.

#### G. Ineligible Applicants

An applicant shall be ineligible as follows:

1. Is unable to disclose and document social security numbers of all household members who are at least 6 years old, or does not execute a certification stating that no social security numbers have been assigned;
2. Does not sign and submit verification consent forms or the Authorization for Release of Information (forms HUD-9887 and HUD-9887-A);
3. Has household characteristics that are not appropriate for the specific type of unit available at the time, or has a family of a size not appropriate for the unit sizes that are available;
4. If CHBI determines that there is reasonable cause to believe that an applicant family's household member's illegal use or pattern of illegal use of a drug or a controlled substance may interfere with the health, safety, or right to peaceful enjoyment of the premises by other Tenants.

(When the drug related criminal activity is use or abuse and not sale or distribution of an illegal drug or controlled substance, CHBI may waive prohibiting admission if the person demonstrated to CHBI's satisfaction that the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol and: (a) has successfully completed a supervised drug or alcohol rehabilitation program; (b) has otherwise been rehabilitated successfully; or (c) is participating in a supervised drug or alcohol rehabilitation program.)

5. If CHBI determines that there is reasonable cause to believe that an applicant family's household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other Tenants.
6. If any family member is currently engaging in illegal drug use.
7. If any family member has been evicted from federally-assisted housing for drug-related criminal activity, for three years from the date of eviction. If the evicted household member who has engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program or circumstances leading to the eviction no longer exist, CHBI may, but is not required to admit the household.

8. If any member of the family is subject to a lifetime registration requirement or currently registered under a state sex offender registration program.
9. If a family member has been convicted of manufacturing or producing methamphetamine on CHBI premises or on the premises of any other federally subsidized housing.
10. If the applicant fails to meet any other required eligibility criteria (See Part IX – Lease Terminations).

Community Homes of Bismarck, Inc. has implemented a Zero Tolerance "One Strike and You're Out" policy to deny applicants who are involved in drug-related criminal activity.

Notification of Applicant Rejection

Each applicant determined ineligible shall be promptly notified by CHBI in writing of the determination with the reason therefore and of the right, upon request, to an Informal Hearing.

Family Break-Up - To remove a family member during the application process the adult head of household may remove a minor from the application by written request to CHBI. The head of household may be required to provide written documentation to show that the minor no longer resides with the family.

An adult member may only be removed from the application as follows: (a) the adult family member presents a written request to CHBI to be removed from the application, (b) there is a court restraining or protection order in force which prohibits the adult family member from being in or near the unit and/or the other adult member, (c) the adult family member is hospitalized in a for longer than 180 continues days, (d) an adult will be absent from the unit for longer than 60 continuous day, or (e) when circumstances arise other than those mentioned above which would not deny or interfere with the removed adult family member's rights under the application.

H. Occupancy Standards

Every member of a family regardless of age should be considered a person. Unborn children are considered persons under these standards.

Generally assignment of units will be made as shown below:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	5
3	3	6

An owner may assign a family to a larger unit than suggested by the owner's occupancy standards if one of the following conditions exists:

1. No eligible family in need of the larger unit is available to move into the unit within 60 days, the property has the proper size unit for the family but it is not currently available and the family agrees in writing to move at its own expense when a proper size unit becomes available. When transfers are necessary, they take priority over new admissions.

2. A family needs a larger unit as a reasonable accommodation for a family member which is a person with a disability.

However, a single person must not be permitted to occupy a unit with two or more bedrooms, except for the following conditions:

- A person with a disability who needs the larger unit as a reasonable accommodation.
- A displaced person when no appropriately sized unit is available.
- An elderly person who has a verifiable need for a larger unit.
- A remaining family member of a resident family when no appropriately sized unit is available.

#### I. Family Absences from Unit

A unit under lease may not be left unoccupied for greater than 60 continuous days, whether or not the Tenant pays rent and/or utilities on the unit unless otherwise approved in writing by CHBI.

Criteria used to determine if a family is absent from a unit include but are not limited to:

1. Rent is unpaid.
2. Papers piled up in front of door.
3. Mail not collected, or Post Office reports a forwarding address has been placed at the Post Office by the family.
4. Reports by neighbors or other individuals that the unit is vacant.

When CHBI determines that a unit is abandoned by the Tenant family, the unit will be reinstated to CHBI in accordance with CHBI's Abandonment Procedure (See Appendix A).

#### J. Changes in Family Composition

1. To add a family member, foster child or live-in aide to a Tenant's lease, the Tenant must:
  - a. Submit a written request to CHBI.
  - b. Complete a Personal Declaration including the proposed new family member so that the additional family member may be screened for eligibility.
  - c. Supply all required documentation for proposed new family member, foster child, live-in aide, etc.

d. Not allow the proposed new family member to reside in the unit without written approval from CHBI prior to the proposed new family member being determined to be eligible by CHBI staff and being officially added to the lease. (Exception: a newborn, adopted baby or foster child may reside in the unit during the process of determining eligibility to be added to the lease as a family member).

2. To remove a family member from a Tenant's lease the following procedures must be followed:

a. The adult head of household may remove minors from the lease by written request to CHBI. The Tenant may be required to provide documentation to show that the minor no longer resides in the unit when CHBI requests such information.

b. An adult member of the household may only be removed from the lease as follows:

1. The adult member presents a written request to CHBI to be removed from the lease.
2. The court evicts the adult family member from the unit.
3. There is a court restraining or protection order in force which prohibits the adult family member from being in or near the unit.
4. The adult family member is absent from the unit for longer than 180 continuous days for medical reasons.
5. The adult family member is absent from the unit for longer than 60 continuous days.
6. When circumstances arise other than those mentioned above that would not deny or interfere with the removed adult family member's rights under the lease.
7. When the family breakup reduces the number of family members, the occupancy standards and requirements will be reviewed to reflect the reduced size of the family.

#### K. Reassignment or Transfers to Other Dwelling Units

Reassignment or transfers to other dwelling units shall be made in accordance with Part III, A. Non-discrimination, as follows:

1. Tenants shall not be transferred to a dwelling unit of equal size either within a project or between projects, except for alleviating hardships as determined by the Executive Director or his/her designee.
2. Transfers shall be made to conform to occupancy standards.
3. Transfers required shall take precedence over new admissions.
4. Families in over-occupied units shall be offered a larger unit at the first opportunity.
5. Families in under-occupied units shall be offered a smaller unit at the first opportunity.
6. Only one unit will be offered to a family transferring unless there is a hardship situation as determined by CHBI. If a Tenant refuses the unit offered, and it is determined by CHBI that there is no hardship to the family. If the family refuses to move to the correct size unit, the family may stay in the current unit and pay the market rent for the unit they currently occupy.

#### L. Additional Selection Criteria

1. Selection is determined in accordance with Part II, 3. above.
2. CHBI can hold a unit for an eligible applicant for no more than 30 days after notifying the applicant of the available unit. If CHBI staff determines extenuating circumstances warrant it, an extension period may be granted up to an additional 30 days.
3. All other eligibility requirements apply.
4. Each eligible applicant will be offered a suitable unit. If the applicant rejects the unit offered, he/she shall be either moved to the last place on the waiting list or removed from the waiting list, whichever the applicant chooses. If the applicant rejects a unit when his/her name reaches the top of the waiting list for a second time the application will be made inactive and the applicant informed that he/she must reapply when he/she is again interested. It is not a rejection if the location would create an undue hardship to the applicant. This hardship must be verified and accepted by CHBI.

#### M. Housing Quality Standards Inspection Procedure

CHBI will inspect all units in accordance with CHBI's written procedures for required inspections (See Appendix C).

### **PART III - TENANT SELECTION AND ASSIGNMENT POLICIES**

The Tenant Selection and Assignment Policies take into consideration the needs of individual families for low-income housing and the statutory purpose in developing and operating a sound low-income housing program which provides a decent and suitable living environment and which fosters economic and social diversity in the tenant body as a whole.

#### A. Non-discrimination

CHBI shall provide housing in a fair and consistent manner to all persons/families interested in renting a CHBI unit. CHBI will not discriminate at any stage of the application/participation process because of race, color, religion, sex, handicap, disability, familial status or national origin. CHBI is bound by the nondiscrimination requirements of federal, state and local law. No preference will be shown any applicant because of political affiliation or acquaintance with any public official at the federal, state or local level. CHBI will abide by the nondiscrimination requirements of:

1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs receiving federal financial assistance;
2. Title VIII of the Civil Rights Act of 1968, which prohibits discrimination based on race, color, religion, sex, handicap, disability, familial status or national origin, in the sale, rental or advertising of housing;
3. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicap in programs receiving federal financial assistance;
4. The Age Discrimination Act of 1975, which prohibits discrimination based on age in programs

- receiving federal assistance;
5. Executive Order 11063, which required HUD to take whatever action is necessary to prohibit discrimination based on race, color, sex, handicap, disability, familial status or national origin, in housing receiving federal assistance;
  6. N.D.C.C. 14-02.4, which is the state anti-discrimination law. CHBI shall not discriminate against any applicant because of race, color, religion, sex, national origin, age or mental or physical disability, or status with regard to marriage or public assistance. No preference will be shown any applicant because of political affiliation or acquaintance with any public official at the federal, state, or local level;
  7. The Fair Housing Act (42 U.S.C. 3601-3619) and the implementing regulations at 24 CFR parts 100, 108, 109 and 110;
  8. The Americans with Disabilities Act (42 U.S.C. 12101-12213) to the extent applicable;
  9. Violence Against Women Act and Department of Justice Reauthorization Act of 2005 (VAWA.)

#### B. Reasonable Accommodation

Any individual with a disability may request a reasonable accommodation to have access to the benefits of housing or housing assistance equal to the benefits of housing and housing assistance accessed by non-disabled individuals.

To qualify for a reasonable accommodation the individual must meet the following criteria.

1. Be a CHBI-verified disabled individual.
2. The requested accommodation must be related to the disability. When the disability is not documented or apparent, will request written documentation from a qualified individual or agency that the requested accommodation is needed due to the disability. CHBI will not require verification of the nature of the disability.
3. The requested accommodation must be considered reasonable by CHBI. To be considered reasonable, the accommodation requested should (a) not alter the fundamental business of providing housing assistance. For example: CHBI would not consider a request to provide a grocery shopping or housekeeping service reasonable, as this does not fall within the fundamental business of providing housing or housing assistance, and (b) not create undue hardship or financial burden to CHBI. If more than one accommodation is equally effective in providing equal access to CHBI's services, CHBI retains the right to select the most efficient or economic choice of accommodation.
4. Communication Accommodation. CHBI does take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public, and furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving federal financial assistance in accordance with 24 CFR 8.6 Communication. All interpreters, signers and auxiliary aids must be pre-approved by CHBI if services are to be billed to CHBI.

Whenever a reasonable accommodation is requested CHBI retains the right to determine if the requested accommodation meets the above criteria.

When a request for a reasonable accommodation is denied, the tenant/applicant will be notified in writing of the denial and their right to request an Informal Hearing under CHBI's grievance procedure.

#### **PART IV - RENTS AND RENT COLLECTION POLICY**

##### **A. Schedule of Rents**

Tenants who receive Section 8 rental assistance will pay 30 percent of their adjusted gross income or \$25, whichever is greater. Tenants who are not receiving Section 8 rental assistance (236 Leases) pay 30 percent of their adjusted gross income up to a maximum which is the market rent established for the project for the applicable bedroom size.

##### **B. Rent Collection Policy**

1. Rents are due and payable in advance on or before the first day of each month.
2. All unpaid rents become delinquent after close of business on the 5th of each month and unless a written extension is requested and approved by CHBI and signed by the head of household or any adult member of the household prior to the 5th day of the month. On the 6th of the month a late fee will be assessed to the Tenant's account. If the rent is not paid in full by the last working day of the month for which the rent is due, the Tenant shall be personally served a 10-Day Notice to Pay or Quit. If payment is not received in full within the 10-day notice period and/or the Tenant has not filed a grievance in accordance with the grievance procedure, the account shall be forwarded to CHBI's attorney for legal processing.

When a payment agreement is executed, the maximum length of an extension of time to pay the delinquent rent shall be 30 days. If the rent is not paid on the date set forth in the payment agreement, a late fee will be assessed to the Tenant's account. If the rent is not paid in full by the last working day of the month for which the rent is due, the Tenant shall be personally served a 10-Day Notice to Pay or Quit. If payment is not received in full within the 10-day notice period and/or the Tenant has not filed a grievance in accordance with the grievance procedure, the account shall be forwarded to CHBI's attorney for legal processing.

3. A \$5.00 late charge is added to any rents not paid on or by close of business on the 5th of the month and \$1.00 each additional day rent remains unpaid during the month it is due or such date set forth in an approved written payment agreement.
4. If payment is not made and the time for a grievance has expired, legal proceedings will be instituted for possession of the unit. Partial payment will not stop the legal action.
5. Non-payment of rent and/or receipt of a NSF or No Account check constitute material non-

compliance with the terms of the lease and could result in termination of tenancy.

## **PART V - ADDITIONAL CHARGES**

### A. Security Deposit

Each Tenant is required to pay a security deposit in an amount determined by CHBI for 236 Project units and up to, but no greater than, one month's total tenant payment for Section 8 units. The security deposit will be held until the Tenant moves out and will be returned with interest at that time if the following conditions are met:

1. There is no unpaid rent or other charges for which the Tenant is liable.
2. The assisted unit and all equipment are left reasonably clean, and all trash and debris has been removed by the Tenant.
3. There is no damage which is not due to normal wear.
4. All keys issued to the Tenant are returned to the CHBI office when the Tenant vacates.
5. Tenant must provide CHBI with a forwarding address.
6. Tenant gives 30 days written notice of intent to vacate to CHBI.
7. Tenant must have resided in a CHBI unit for nine or more months before interest will be paid on a security deposit.
8. When a security deposit is paid by an agency on behalf of the Tenant and there is security deposit available to be returned at move-out, the security deposit will be returned to the agency that paid it unless the agency specified otherwise.

The security deposit may not be used to pay rent or maintenance charges during occupancy.

## **PART VI - RE-EXAMINATION AND RENTAL ADJUSTMENTS**

A. CHBI will re-examine income, assets, expenses and family composition as follows:

1. Annually as required by regulation.
2. When any of the following occur:
  - a. Additional persons will reside in the unit.
  - b. Tenant requests a rent review due to a decrease in family income or change in family size or a change in other circumstances which would lower the rent payment according to HUD regulations.
  - c. The current rental payment was calculated for a temporary time period.
  - d. There is a change in CHBI regulations requiring such a review.
  - e. There is an increase in unearned income.
  - f. The household's income (including both earned and unearned) cumulatively increases by \$200 or more per month.

B. At the annual re-examination the Tenant is required to:

1. Provide required releases of information;
2. Completed Personal Declaration form;
3. Verify ALL income, assets and deductions; and
4. Provide current information on family composition.

C. If at the conclusion of an annual, or interim review it is found that the rent currently being charged is no longer in conformance with HUD regulations, the rent will be adjusted accordingly.

D. When rent is established, such rental rate shall remain in effect until the next re-examination.

E. If the tenant complies with the interim reporting requirements, rent changes will be implemented as follows: Increases in rent resulting from rent reviews are effective first of the month commencing after the end of a 30 day advance notice. Decreases in rent are effective the first day of the month following the change. All changes must be verified in writing by the 25th of the month in which the change occurs, or within ten (10) calendar days when the change occurs between the 25<sup>th</sup> of the month and the last day of the month.

F. If it is found that the size or composition of a household has changed so that the unit occupied by the family contains a number of rooms less or greater than necessary to provide decent, safe and sanitary housing CHBI shall transfer the family to a dwelling unit of the appropriate size according to transfer procedures as set out in this plan.

G. If it has been found that a tenant misrepresented to CHBI the facts upon which rent is based so that the rent paid is less than should have been charged, then the increase in rent is made retroactive to the date the change should have been made. If CHBI determines that the Tenant has gained admission or remained in occupancy in the CHBI unit through the Tenant's willful misrepresentation of income, assets, or family composition, the PHA may serve a Notice of Termination of Lease and may file charges against Tenant in district court for theft of services or fraud.

H. If CHBI determines that a Tenant intentionally or deliberately misrepresented his/her income, assets, deductions or family composition, the Tenant may be served with a Notice of Termination of Lease at the time the misrepresentation is discovered, whether or not the Tenant is eligible when the misrepresentation is discovered. Tenant has the right to request an Informal Hearing in accordance with CHBI's grievance procedure.

## **PART VII - VERIFICATION OF STATEMENTS AND INCOME**

All applicants and Tenants shall be required to furnish proof of any statements when requested by CHBI to reasonably assure accuracy.

When an applicant or Tenant reports annual income of zero CHBI requires the absence of such income to be verified every 90 days.

All verifications will be obtained prior to the signing of a lease and for all subsequent re-examinations to

ensure that current and accurate data is used in calculating rents, eligibility and unit size.

Applicants/tenants must furnish verification or provide authorization to CHBI to obtain verification from a third party of all statements regarding income, assets and allowances.

When a Tenant's or applicant's participation in or completion of a drug abuse, alcohol abuse or other counseling program is required for admission or continued occupancy, the applicant or Tenant must provide releases of information to CHBI for such counselors or agencies as are involved for purposes of determining eligibility.

All income, assets and each applicable deduction or exemption is verified at the time of admission and at each subsequent reexamination. Income will be verified by a third party where feasible. If third-party written verification is not possible, a review of documentation provided by the family, such as employer's W-2 forms, benefit checks, income tax returns, benefits award letters, savings and checking account statements, estimated market value of real estate from tax statements, United States savings bond redemption values, and other supporting documents may be accepted. In cases where third-party verification is not used, CHBI will document the reason another method was used.

The following will be verified and documented in tenant files:

1. Age of family members when the sole factor in determining eligibility is based on age or to support exemptions claimed for minors or elderly.
2. Displacement, handicap, disability or age when they are a factor in determining eligibility for a placement on the waiting list or unit assignment.

For persons who claim disability but do not receive benefits under Section 223 of the Social Security Act or Section 102(b)(5) of the Developmental Disabilities Services and Facilities Construction Amendment of 1970, or any other disability insurance, and when applicant or Tenant has no other means of verifying disability, a doctor's certification as to the degree and possible length of such disability or equivalent may be required. The receipt of veterans' benefits for disability, either service-incurred or otherwise, does not automatically establish eligibility.

3. Full-time student status.
4. Social Security numbers for all family members must be verified by a valid social security card or other official document acceptable to CHBI.
5. Non-economic selection criteria. When the basis for possible denial of eligibility is the past conduct of the applicant or members of his or her family, CHBI may request additional information, including, but not limited to:
  - a. Verification of past rental history;
  - b. Interviews with neighbors, clergy, advocates, counselors, parole officers, local law

- officers, etc.; and
- c. Review of public records.

### **PART VIII – LEASING**

A Prior to admission, a lease shall be signed by the head of household, all other adult members in the household and by CHBI.

B. The lease is to be current at all times and must be in the form prescribed by HUD as well as federal and state law.

C. Schedules of special charges for services, repairs and utilities, and rules and regulations which are required to be incorporated into the lease by reference shall be:

1. Delivered directly or mailed to each Tenant; or
2. Posted in a conspicuous place at the PHA office.

D. Any modifications of the lease and any rent adjustments must be accomplished by a written addendum to the lease signed by both parties.

### **PART IX - LEASE TERMINATIONS**

#### **A. When the Lease may be Terminated by Tenant:**

At the end of the first year of the lease for assisted Tenants, and at the end of 30 days for 236 Tenants. The Tenant may terminate the lease by providing CHBI with a written notice as defined in the lease agreement.

#### **B. Grounds for Termination of the Lease or Denial of Housing**

The lease may be terminated by CHBI at any time by the giving of written notice of termination of lease for material noncompliance with the rental agreement, drug abuse and other criminal activity, material failure to carry out obligations under State Landlord/Tenant Act, and other good cause.

Listed below are grounds for termination of the lease or denial of housing for action or failure to act by the applicant/tenant, any member of the applicant/tenant's household or guest(s). The period of ineligibility to apply for or receive housing assistance through CHBI after denial or termination is shown in parenthesis at the end of each item listed below. These grounds include, but are not limited to the following:

1. **Material Noncompliance**
  - a. One or more substantial violations of the rental agreement; (1 year from denial or vacate date).
  - b. Repeated minor violations of the rental agreement that:
    1. Disrupt the livability of the project,
    2. Adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities,

3. Interfere with the management of the project;
  4. Have an adverse financial effect on the project;
  5. Disturbance of neighbors. (Decided case by case, but in no case for less than 1 year from the denial or vacate date).
  6. Destruction of property. (Decided case by case, but in no case for less than 1 year from denial or vacate date and the amount of the damages is paid in full).
  7. Tenant allows unauthorized individual(s) to stay, live or reside in the assisted housing unit without prior written permission from CHBI. (1 year from denial or vacate date).
- c. If the applicant/tenant:
1. fails to submit in time all required information on household income and composition.
  2. fails to submit required evidence of citizenship or eligible immigration status: ( 1 year from date of denial or vacate date).
  3. Disclose and verify social security numbers; ( 1 year from denial or vacate date).
  4. knowingly providing incomplete or inaccurate information including and not limited to knowingly omits or underreports income or assets of self or household members, transfers income or assets to obtain/retain false eligibility, and overstates deductions/allowances/expenses. (3 years from denial or vacate date and all money owed CHBI is repaid in full).
  5. extended absence or abandonment of the unit (Case by case, but in no case less than 1 year from vacate date).
  6. Fraud
  7. Tenant fails to complete interim re-certifications as set out in this plan and annual re-certifications as required by HUD. (1 year from denial or vacate date).
  8. Fails to report increases in unearned income, or family composition changes by the 25<sup>th</sup> of the month in which the change occurs, or within 10 calendar days when the change occurs between the 25<sup>th</sup> of the month and the last day of the month. (1 year from denial or vacate date).
- d. Failure to pay rent or other charges. (1 year from denial or vacate date and the family signs and is current on a repayment agreement or has repaid the amount in full).

## 2. Drug Abuse and other Criminal Activity

- a. Violent criminal activity that threatens the health, safety or right to peaceful enjoyment of CHBI's housing premises by other Tenants or CHBI staff. (Shall be determined on a case by case basis considering the level of violence or threatened violence and based on a preponderance of the evidence).
- b. Any drug-related criminal activity or current illegal drug use by any household member on or off the premises:
  1. Drug use and Possession. When the incident is illegal use or possession for personal use the termination or denial shall be in accordance with 24CFR5.854. Should the family member fail to show addiction and treatment as required, ineligible for three (3) years per each incident from the date of the incident,
  2. When the drug-related incident is selling; illegal manufacture; distribution; or possession with intent to manufacture, sell or distribute a controlled substance; ineligible

for five (5) years per each incident from the date of the incident.

- c. CHBI has reasonable cause to believe that the Tenant, a member of the Tenant's family or guest(s) is currently engaging in illegal drug use or has a pattern of controlled substance abuse that interferes with the health, safety, or right to peaceful enjoyment of the premises by other Tenants. (Case by case based on the preponderance of the evidence, but in no case less than 1 year).
  - d. Any household member who has been evicted from federally-assisted housing for drug-related criminal activity. (3 years from date of eviction).
  - e. CHBI has reasonable cause to believe that the Tenant or a member of Tenant's family or guest(s) abuses or has a pattern of alcohol abuse that interferes with the health, safety, or right to peaceful enjoyment of the premises by other Tenants. (Decided case by case on the preponderance of the evidence, but in no case less than 1 year).
  - f. If any family member has been convicted of manufacturing or producing methamphetamine on the premises of assisted housing. (Ineligible for lifetime).
  - g. If any member of the household is subject to a lifetime registration requirement for sex offenders. (Ineligible for lifetime).
  - h. Any applicant or family member registered as a sex offender or offender against children will not be eligible to receive assistance from CHBI until the time has run requiring them to register as a sex offender or offender against children and until their name is removed from the ND Office of Attorney General Convicted Sex Offenders and Offenders Against Children-Public List or any other convicted sex offenders and offenders against children lists; and the period, if any, of ineligibility based on the date of the incident as set out in CHBI's Administrative Plan has also run or expired.
  - i. If a member of the household is fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees. (Case by case, but in no case less than 1 year from the denial or vacate date).
  - j. If a member of the household is violating a condition of probation or parole imposed under federal or state law. (Case by case, but in no case less than 1 year from the date of the denial or vacate date).
3. Material failure to carry out obligations under a State Landlord and Tenant Act
- a. Poor living or housekeeping habits which result in the unit failing inspection and/or which creates an unsafe or unsanitary condition in the unit or on the project premises. (Decided case by case, but in no case for less than 1 year from denial or vacate date).
4. Other good cause

Determination that a Tenant, Tenant's family, or guest(s) has violated the lease, CHBI's Administrative Plan, HUD regulations, or federal housing law which requires that the applicant be denied or the Lease of the Tenant is Terminated shall be based on the preponderance of the evidence rather than the higher standard of "beyond a reasonable doubt" in criminal law.

Verification of any of the above violations is considered grounds for Termination of Lease, or other

appropriate action to correct the violation(s).

Community Homes of Bismarck, Inc. has implemented a Zero Tolerance "One Strike and You're Out" policy to remove Tenants who are involved in drug related criminal activity.

Before CHBI takes any adverse action based on criminal activity, the CHBI must provide the applicant or Tenant with a copy of the criminal record or information on the criminal activity and an opportunity to dispute the accuracy or relevancy of the record through CHBI's Grievance Procedure as set out in this plan.

Failure by CHBI to terminate on the basis of one incident is not a waiver of any legal remedies or termination at a later date. If CHBI terminates the lease, written notice will be given as follows:

1. Ten (10) days prior to termination in the case of failure to pay rent.
2. Three (3) days for drug-related activity on or off the premises, violent criminal activity on or off the property, or alcohol abuse that threatens the health, safety or peaceful enjoyment of the premises by other Tenants or CHBI staff.
3. A reasonable time based on the circumstances in the case of Tenant or Tenant's guests or other persons under the Tenant's control creating or maintaining a threat to the health or safety of other Tenants or PHA employees or the safety of the unit or the project with the exceptions set out in (2) above, and
4. Thirty (30) days in all other cases.

#### C. Notice of Termination

Notice of termination to Tenant shall be in writing and state that the tenancy is terminated on a date specified therein; state the reasons for the termination, shall inform the Tenant of his/her right to make such reply as he/she may wish and of his/her right to request to pursue CHBI's grievance procedure and the elements of due process, except where the grievance procedure is not required by statute. When administrative remedy is not required, the eviction action shall proceed directly to court.

#### D. VAWA Protections

1. CHBI may not consider incidents of domestic violence, dating violence or stalking as serious or repeated violations of the lease or other "good cause" for termination of assistance, tenancy or occupancy rights of the **victim** of abuse.
2. CHBI may not consider criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the **victim** or threatened victim of that abuse.
3. CHBI may request in writing that the victim, or a family member on the victim's behalf, certify that the individual is a victim of abuse and that the Certification of Domestic Violence, Dating Violence or Stalking, Form HUD-91066, or other documentation as noted on the certification forms, be completed and submitted within 14 business days, or an agreed upon extension date, to receive protection under the

VAWA. Failure to provide documentation or other supporting documentation within the specified timeframe may result in eviction.

## **INFORMAL HEARING**

CHBI will give the Tenant the opportunity for an Informal Hearing in the following circumstances:

- A determination of the amount of the Total Tenant Payment.
- A determination that the Tenant is living in a unit with more or less bedrooms than appropriate under the subsidy standards.
- A determination of the number of bedrooms in the unit assigned to the family.
- A determination to terminate the lease of the family because of the family's action or failure to act.
- A determination to terminate assistance because the family has been absent from the assisted unit for longer than the maximum time allowed.
- When a request for reasonable accommodation is denied.

### **Procedures for an Informal Hearing**

For any decision on which a family has a right to an Informal Hearing as described above CHBI will notify the applicant/tenant of the decision, their right to request an Informal Hearing in writing within 10 calendar days of the date of the notice of denial or termination.

The applicant/tenant will be provided a written copy of CHBI Grievance Procedures with the notice of denial or notice of termination of lease.

The Informal Hearing will be conducted by a person or persons designated by CHBI, and will be someone other than a person or a subordinate of a person who made or approved the decision under hearing.

The Informal Hearing will be scheduled to be conducted within 10 business days of the date the written request is received in CHBI's office.

**The applicant/program participant must appear personally at Community Homes of Bismarck, Inc.'s office, 410 South 2<sup>nd</sup> Street, Bismarck ND to present his/her grievance (phone calls or mailed in requests are not accepted or than as a reasonable accommodation for a person with disabilities who has notified CHBI in advance that he/she cannot comply with that requirement due to a disability condition.)** The request for an informal hearing may be presented orally or in writing. When the request is written, it must be signed by the complainant. The grievance must be presented no later than 10 calendar days from the date of the notice of action or proposed action. It may be simply stated, but shall specify:

1. The particular ground(s) on which it is based;
2. The action requested, and
3. The name, address, and telephone number of the family and similar information about his/her

representative, if any.

FAILURE TO REQUEST AN INFORMAL HEARING AS SET OUT ABOVE WILL BE DEEMED A WAIVER BY APPLICANT/PROGRAM PARTICIPANT OF HIS/HER RIGHT TO A HEARING ON THE GRIEVANCE.

The family shall be afforded a fair hearing, which shall include:

1. The opportunity to examine before the hearing any CHBI documents directly relevant to the hearing. The family is allowed to copy any such document at the family's expense. If CHBI does not make a document available for examination upon request, CHBI may not rely on such document at the informal hearing.
2. CHBI must be given the opportunity to examine at CHBI's office, 410 South 2nd Street, Bismarck, ND, before the hearing, any of the family's documents that are directly relevant to the hearing. CHBI must be allowed to copy any such document at CHBI's expense. If the family does not make a document available to CHBI for examination upon request, the family may not rely on that document at the hearing.
3. At the family's expense the family may be represented by counsel or other representative.
4. The right to present written or oral evidence and to question witnesses.
5. A decision based solely upon the preponderance of the evidence presented at the hearing.
6. Reasonable accommodations for persons with disabilities to participate in the Informal Hearing.
7. When the applicant/program participant wishes to reschedule the date and time of the scheduled hearing, the applicant/program participant must contact CHBI 24 hours prior to the date and time of the scheduled hearing.
8. Failure to appear. When the applicant/program participant fails to appear for the scheduled Informal Hearing the applicant/program participant shall be deemed to have waived his/her right to an Informal Hearing on this matter and the disposition of the grievance proposed by CHBI shall become final. (Should the action by CHBI be a termination of lease, CHBI will then proceed to district court for an eviction hearing).
9. Within 10 working days of the hearing, the hearing officer will issue a written decision to the family, a copy will be mailed to the family and a copy will be retained in the family's file at CHBI.

### **Informal Hearing Guidelines**

1. The Hearing Officer will conduct the hearing in accordance with the following guidelines:

2. The applicant/program participant or the applicant/program participant's representative will be given an opportunity first to present his/her objections only to the specific decision pertinent to this hearing. The applicant/program participant may present evidence or question witnesses at this time.
3. CHBI may present evidence and question witnesses. The applicant/program participant will have the opportunity to question any CHBI witness at this time also.
4. When the applicant/program participant fails to appear for the scheduled Informal Hearing the applicant/program participant shall be deemed to have waived his/her right to an Informal Hearing on this matter and the disposition of the grievance proposed by CHBI shall become final. (Should the action by CHBI be a termination of lease, CHBI will then proceed to district court for an eviction hearing.)

The Informal Hearing is not intended to duplicate procedures under judicial review so the rules of admissibility under such proceeding will not be applied in the course of the hearing.

### **Scope of the Hearing Officer's Decision**

A decision by the hearing officer in favor of CHBI or which denies the relief requested by the family in whole or in part shall not constitute a waiver of the rights of the family to judicial review. CHBI Tenants can only be evicted through a court proceeding.

CHBI is not bound by the hearing officer's decision as follows:

1. Concerning a matter for which CHBI is not required to provide an opportunity for an Informal Hearing under this section, or that otherwise exceeds the authority of the hearing officer; or
2. Contrary to HUD regulations or requirements, or otherwise contrary to federal, state or local law. If CHBI determines that it is not bound by a hearing decision, CHBI will promptly notify the family of this determination and of the reasons for the determination.

### **CHBI is not required to provide a tenant family an opportunity for an Informal Hearing in the following circumstances:**

1. Discretionary administrative determinations by CHBI;
2. General policy issues or class grievances;

When CHBI is required to afford the Tenant the opportunity for an Informal Hearing under the grievance procedure or a grievance concerning the lease termination, the tenancy shall not terminate (even if any notice to vacate under state and local law has expired) until the time for the Tenant to request an Informal Hearing has expired, and (if a hearing was timely requested by Tenant) the grievance process has been completed.

Appeals concerning the obligations of the Tenant or CHBI under the provisions of the lease shall be processed and resolved according to the CHBI Grievance Procedure in effect at the time such grievance

or appeal arises, which procedure is posted in the CHBI office.

Terminated Tenant files may be disposed of three years after audit.

When making a determination to deny an application for housing to an applicant or to evict a Tenant because of action or failure to act by members of the family, CHBI has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or eviction from housing on other family members who were not involved in the actions or failures to act. All decisions will be made on the preponderance of the evidence.

## **PART X - CHBI GRIEVANCE PROCEDURE**

### **A. Definitions**

1. "Grievance" is a dispute which a Tenant may have concerning CHBI action or failure to act according to the individual Tenant's lease or CHBI regulations which adversely affects the individual Tenant's rights, duties, welfare or status.

2. "Complainant" is an adult Tenant whose grievance is presented to CHBI in accordance with this procedure.

3. "Hearing Officer" means a person(s) selected according to this grievance procedure to hear grievances and render a decision.

4. "Tenant" is a lessee of any Tenant family residing in housing owned or leased by CHBI.

5. "Elements of due process" shall mean in an eviction action or a termination of tenancy in a state or local 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. Opportunity for the Tenant to examine directly relevant documents, records or regulations of CHBI prior to the eviction for the purpose of preparing a defense.
  1. The Tenant is allowed to copy CHBI's documents directly relevant to the eviction, such copying is at the Tenant's expense.
- c. Right of the Tenant to be represented by counsel of his/her choice, and at his/her expense.
- d. Opportunity for the Tenant to refute the evidence presented by CHBI including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have.
- e. A decision based solely and exclusively upon the facts presented at the eviction.

## B. Complaints Excluded from the Grievance Procedure

The following complaints are excluded:

1. Imposition of penalties for late payment, NSF or No Account check penalties, copying charges.
2. Disputes between tenants.
3. Class grievances.
4. Grievances filed by a live-in aide.
5. An eviction for any criminal activity that threatens the health, safety or right to the peaceful enjoyment of the premises of other Tenants or employees of CHBI which may include, but are not limited to:
  - Violent criminal activity on or off the premises;
  - Drug-related criminal activity on or off the premises;
  - Domestic violence;
  - Vandalism;
  - Crimes against children;
  - Sex-related crimes;
  - Alcohol abuse.
6. Any activity resulting in a felony conviction.

When CHBI is not required to afford the Tenant the opportunity for an Informal Hearing under CHBI's administrative grievance procedure CHBI shall:

1. State that the Tenant is not entitled to an Informal Hearing on the notice issued;
2. Specify the judicial eviction procedure to be used by CHBI for eviction of the Tenant; and
3. State that HUD has determined that this eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations.

## C. Selection of Hearing Officer or Panel

The Board of Directors shall appoint an impartial person or persons as hearing officer(s) upon appropriate notice, who may be an officer or employee of CHBI provided such person is other than a person who made or approved CHBI action under review or subordinate of such person.

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