



NEW YORK STATE HOMES AND COMMUNITY RENEWAL

Overview of Tenant Selection Process & Sample Applicant Letters for State Supervised Mitchell-Lama Housing Companies

- 1. Marketing:** Applicants learn about apartment availability through the housing company's marketing program. Lists of family and senior citizen developments on HCR's website at: <http://www.nysdhcr.gov/apps/hsgdevls/hsgdevls.asp> give the estimated wait for studio/one-bedroom apartments (or indicate if the waiting lists are closed) and provide management office contact information. Note that marketing plans and advertisements require HCR approval (NYCRR 1727-1.2). Additional information and waiting lists showing application date and number, with all personal information removed, can be found by accessing the public access page of HCR's Mitchell-Lama Automated Waiting List (AWL) at: <http://nysdhcr.gov/Apps/PublicAWL/>, selecting the "General Waiting List Report" function, and choosing the development from a dropdown list. To update or correct information on HCR's website, contact the development's assigned HCR representative.
- 2. Application Materials & Information:** Prospective applicants obtain applications and information on current rent/carrying charge and equity ranges, maximum income limits, occupancy standards (NYCRR 1727-2.8), and the admission preference for veterans (see MBM# 2010-B-06) from the development's management office. Housing companies are required to establish uniform written criteria, policies and procedures for screening applicants and to make this material available for review by applicants and HCR. Note that housing companies may establish *minimum* annual income standards as part of their screening criteria, but that such standards cannot be more restrictive than 40 times the monthly rent for non-senior households or 36 times the monthly rent for senior households. In addition, *minimum* income standards may not be applied until the applicant is reached on the waiting list and applicants who do not meet the standards must nonetheless be given the opportunity to demonstrate their ability to pay the rent (see NYCRR 1727-1.3[i]).
- 3. Application Process:** *If the waiting lists are open*, completed applications are submitted to the housing company along with a non-refundable \$75 processing fee*. The housing company time and date stamps applications upon receipt, records them in the AWL in order of receipt, and reviews them for program eligibility. Transfer applicants must have the appropriate household composition for the apartment size requested prior to being placed on the waiting list** and their current apartment must be vacated upon the transfer. Admission applicants must be within maximum income limits and meet age requirements at the time of application and at the time of apartment assignment, and must have the appropriate household composition for the apartment size requested**. See step 10 for procedure for rejecting ineligible applicants. *If the waiting lists are closed*, HCR approval must be obtained at least 30 days prior to reopening which may be conducted by lottery.
- 4. Confirmation of Application Receipt:** The housing company provides the applicant with a time and date stamped copy of the application and a printout of the AWL application summary and the applicant is advised to inform the housing company in writing of changes in address, family composition, and income within 30 days of such occurrence. Applicants should also be informed that changes in address and/or telephone number can be submitted to the housing company online by accessing HCR's AWL public access page at: <http://nysdhcr.gov/Apps/PublicAWL/> using the "Update Contact Information" function.
- 5. Waiting List Canvass & Applicant Prescreening:** The housing company periodically canvasses waiting list applicants in chronological order requesting a written statement of continued interest within 21 days and advising them of current rents/carrying charges and equity amounts and any scheduled increases. *To facilitate the rent up process and to minimize vacancy loss, housing companies may prescreen reachable applicants at the top of waiting lists by including a request that they submit proof of income and a credit check fee* with their statement of continued interest.* An applicant's failure to respond to a canvass letter sent by certified mail within the required time period results in cancellation of the application and removal from the waiting list. Housing companies may send canvass

letters by regular mail first and then by certified mail, return receipt requested, to applicants who fail to respond. See Attachment A for sample canvass letter

6. **Closing and Reopening Waiting Lists:** When the wait for apartments exceeds 3 years or when the number of active applicants equals the number of dwelling units, the housing company may discontinue accepting applications with the approval of HCR (NYCRR 1727-1.4[a]). At least 30 days in advance of reopening the waiting lists, the housing company must obtain HCR approval.
7. **Automated Waiting List (AWL) Administration:** The AWL should be clearly annotated so that all waiting lists reflect any special requirements the applicant may have, applicable preferences, and apartment offerings, refusals, and assignments. Apartment offerings are made in chronological order by application date, with the following exceptions: (a) transfer applicants are given a priority for 3 out of every 4 available apartments, (b) eligible veterans are given an admission priority, and (c) if a development has apartments that have been modified to accommodate the mobility impaired, qualified applicants are given a priority for these apartments.
8. **Apartment Offerings:** When vacancies are anticipated, the housing company should notify a sufficient number of applicants (telephone notices must be confirmed by mail) and provide information on: (a) applicant's position on the waiting list, (b) the date of anticipated availability, and (c) the applicable family composition and income requirements, and, if applicants have not already been prescreened, request proof of income and a credit check fee*. The notice should also advise applicants that they have the right to refuse one apartment without prejudice to their standing on the waiting list and that failure to respond within 10 business days from the date of the notification letter will be counted as a refusal. *See Attachment B for sample apartment availability notice.* After 10 business days have passed, and credit reports and required documentation have been obtained, each applicant who has expressed an interest in an available apartment is reviewed for eligibility using income and occupancy requirements and the housing company's written screening criteria. The housing company offers the apartment to the eligible applicant with the highest priority and earliest application date.
9. **Submission of Proposed Apartment Assignments to HCR for Approval:** Upon acceptance by the applicant and prior to occupancy, the housing company: (a) annotates the AWL to reflect the "pending" assignment and the apartment refusal, non-response, or ineligibility of earlier applicants on the waiting list and (b) submits the proposed application to HCR for approval along with income and/or unemployment documentation (this documentation is not required for Section 236 developments) and credit reports for all adult members of the household, the appropriate AWL generated waiting list, and any other documentation necessary to establish eligibility. The Administrative Unit reviews submissions for applicant eligibility based on age, occupancy**, order of selection, and, for non-federally-assisted developments, income; approves or disapproves the assignment in the AWL; and advises the housing company and the assigned HCR representative of their findings. Housing companies must establish internal controls to ensure that HCR approval is obtained prior to the signing of leases/cooperator's agreements and the issuing of stock certificates.
10. **Ineligible Applicants:** Housing companies notify ineligible applicants by mail, give them the basis for the determination, and advise them of their right to appeal to HCR's Law Bureau within 14 days of receipt of notification. The AWL must be annotated to indicate why the applicant is ineligible and the housing company must maintain a copy of the application and rejection notice in an ineligible file, alphabetically by surname, for five years. Note that federally-assisted developments must follow the procedure outlined in HUD Handbook 4350.3 (REV-1), page 4-24, paragraphs C and D, before following this step. For federally-assisted development, see Attachment D for sample initial and final ineligibility notices. For non-federally-assisted developments, see Attachment C for sample ineligibility notice.

* For federally-assisted rental developments, fees for processing, credit checks, home visits or police reports are considered housing company expenses and may not be charged to the applicant.

** See Attachment E for occupancy standards.

ATTACHMENT A
SAMPLE CANVASS LETTER

Re: *(Development Name)*

Dear Applicant:

We are canvassing the waiting list for the referenced development to determine which applicants are still interested in an apartment.

Following is a schedule showing the *(rent/carrying charges and equity)* and the maximum allowable adjusted household income for each apartment size:

(Insert schedule.)

If you would like to remain on the waiting list, please complete the attached application update form and return it to this office within 21 days of the date of this letter. If you do not respond in writing within that time period, we will presume that you are no longer interested in an apartment and your name will be removed from the waiting list.

Sincerely,

(Note to Housing Company: If canvass is sent by certified mail, return receipt requested, applicants who fail to respond can be removed from the waiting list. If canvass is sent by first class mail, applicants who do not respond must be canvassed again by certified mail, return receipt requested, before they can be removed from the waiting list.)

ATTACHMENT B

SAMPLE APARTMENT AVAILABILITY NOTICE

(Date of Mailing)

Re: *(Development Name)*

Dear Applicant:

A *(number of bedrooms)* apartment is expected to be available at the referenced development on *(date)*. The next *(number)* applicants on the waiting list are being advised of this availability and you are *(position)* on the list.

In order to qualify for this apartment you must meet the following family composition and income requirements:

Please contact this office within 10 business days of the date of this letter to confirm your interest and eligibility. At that time, if you have not already done so, you will be asked to submit a \$_____ *fee for a credit report along with** the following documents:

(List all documentation requirements here.)

You are permitted one right of refusal of an apartment without prejudice to your standing on the waiting list. If we do not hear from you by *(enter date 10 business days from letter date)* we will presume that you are not interested in this apartment. If the apartment is assigned to someone after you on the waiting list, your failure to respond will be treated as a refusal. If you refuse two apartments you will be removed from the waiting list.

All apartment assignments are subject to the approval of the New York State Homes and Community Renewal.

Sincerely,

*** Note, for federally assisted rental developments this reference must be deleted, because applicants cannot be required to pay application fees or charges for credit checks or home visits.**

ATTACHMENT C

SAMPLE INELIGIBILITY NOTICE

for NON-FEDERALLY-ASSISTED DEVELOPMENTS

(Mailing Date)

Re: *(Development Name)*

Dear Applicant:

We regret to inform you that you have been determined to be ineligible for admission to the above referenced development and have been removed from the waiting list for the following reason(s):

(List all applicable reasons.)

If you have any questions regarding the basis for this determination, please contact this office.

You may appeal this determination within 14 days of receipt of this notice by writing to: New York State Homes and Community Renewal, Office of Legal Affairs, Hampton Plaza, 38-40 State Street, Albany, NY 12207. Please enclose a copy of this letter with your appeal.

Sincerely,

ATTACHMENT D (Page 1 of 2)

SAMPLE INELIGIBILITY NOTICES

for FEDERALLY-ASSISTED DEVELOPMENTS

INITIAL NOTICE

(Mailing Date)

Re: *(Development Name)*

Dear Applicant:

We are writing to inform you of our determination that you are ineligible for admission to the referenced development for the following reason(s):

(List all applicable reasons.)

You have 14 days from the date of this letter to respond to this office in writing or request a meeting to dispute the rejection. If we do not hear from you by then, we will issue a final determination advising you of your ineligibility and of your right to appeal this decision.

Sincerely,

*** Note, any meeting with the applicant to discuss the rejection must be conducted by a staff member who was not involved in the original rejection.**

SEE NEXT PAGE FOR FINAL INELIGIBILITY NOTICE.

ATTACHMENT D (Page 2 of 2)

SAMPLE INELIGIBILITY NOTICES

for FEDERALLY-ASSISTED DEVELOPMENTS

FINAL NOTICE

(Mailing Date)

Re: *(Development Name)*

Dear Applicant:

We regret to inform you that you are ineligible for admission to the referenced development and have been removed from the waiting list for the following reason(s):

(List all applicable reasons.)

You may appeal this final determination within 14 days of receipt of this notice by writing to: New York State Homes and Community Renewal, Office of Legal Affairs, Hampton Plaza, 38-40 State Street, Albany, NY 12207. Please enclose a copy of this letter with your appeal.

Sincerely,

ATTACHMENT E
OCCUPANCY STANDARDS*

NYCRR, Part 1727, Section 1727-2.8.

(a) Apartment assignments must conform to the following occupancy chart provided such assignment does not violate federal, state and local building, health, safety and fair housing laws:

Apartment Size	Household Size for Admission (Minimum-Maximum)
Studio	1-2
1 Bedroom	1-2
2 Bedroom	2-4
3 Bedroom	4-6
4 Bedroom	5-8
5 Bedroom	7-10

It is the housing company's responsibility to verify household composition. For both new admission and transfer applications, the members of the applicant's household must be residing together and must meet the applicable household size requirements at the time of application and at the time of apartment availability. Nevertheless, when appropriately documented, a child subject to a joint custody agreement who lives with the family 50 percent or more of the time, or a child away at school, may be included in the household count.

(b) Exceptions to the minimum household size in the above schedule may be permitted in the following circumstances:

(1) To encourage downsizing from underutilized units, a transfer to a smaller apartment may be permitted even if the household size is less than the minimum. A housing company may create a plan, with the division's approval, to provide additional incentives for such downsizing.

(2) If no applicants on the waiting list meet the occupancy standard for an apartment of a particular size, despite active marketing efforts, the apartment may be offered to applicants eligible for the next smaller sized apartment in chronological order based on application date. In such cases, it will not be counted as a refusal if the applicant declines the larger apartment.

**Note for federally-assisted developments, HUD Handbook 4350.3 requires that unborn and anticipated children be included in the household count.*

(Revised 11-10-09)