



## Homes and Community Renewal

KATHY HOCHUL

Governor

RUTHANNE VISNAUSKAS

Commissioner/CEO

Date: October 12, 2023

To: Developers, Owners and Managers of Projects Funded by NYS Homes & Community Renewal

From: New York States Homes and Community Renewal

Re: Guidelines for NYS HCR-Funded Housing Accessible Units for those with Mobility and/or Hearing/Vision Impairments

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Dear Developers, Owners and Managers-

This memorandum serves to clarify and consolidate policies regarding tenant selection for NYS HCR-funded Accessible Units (as defined below), both for mobility and for hearing/vision impairments. Effective November 6, 2023, the following applies to waitlist and tenant selection procedures regarding Accessible Units:

1. The Owner/Managing Agent (“Housing Provider”) must continue to accept applications and keep the waitlist open for Accessible Units, even if the general waitlist is closed;
2. All public listings, both in NYHousingSearch.gov and elsewhere, must show that the waitlist is open for those Accessible Units;
3. For occupied buildings, a preference for Accessible Units must be given first to current tenants who are in need of the special design features of the unit, and second for those that are on the waiting list and/or apply to the project;
4. As per existing policy, for Accessible Units occupied by households that do not require the accessible features, the Housing Provider must facilitate a relocation to a comparable unit so that a household that requires the accessibility features can move into the Accessible Unit;
5. In extremely limited instances, a Housing Provider may apply for a waiver to fill a vacant unit with a household that does not require the accessibility features. The Housing Provider must follow the requirements outlined below.

### **Definition of “Accessible Units”**

All units that, pursuant to the terms of the Project’s HCR funding, are fully accessible, adapted and move-in ready for applicants with mobility or hearing/visual impairments. This term also refers to units that must be built pursuant to the 5% and 2% accessibility design requirements under Section 504 of the Rehabilitation Act.

### **NYS HCR Waiver for Accessible Units**

A waiver from NYS HCR must be obtained for each Accessible Unit each time that it will be leased by an applicant not in need of the Accessible Unit’s features. Failure to obtain a necessary waiver may result in a finding of noncompliance and any additional penalties and/or remedies as to be determined by NYS HCR. NYS HCR is providing a form waiver request available here: [www.hcr.ny.gov/AccessibleUnitWaiver](http://www.hcr.ny.gov/AccessibleUnitWaiver)

NYS HCR will only consider written requests for waivers that meet all of the following conditions:

1. The Accessible Unit has remained vacant for 60 days even after the Required Outreach and Marketing, described below, has been completed.
2. The Required Outreach and Marketing period lasted the required number of days:
  - a. For initial lease-ups or remarketing, a 60-day Required Outreach and Marketing period was completed, or
  - b. For existing projects that have a vacancy, a 45-day Required Outreach and Marketing period was completed.
3. The Projects continued to conduct outreach and marketing during the vacancy period even if it is beyond the applicable 45 and 60-day required periods
4. NYHousingSearch.gov was updated to reflect the vacancy for the entire marketing and outreach period (2.a or b, above).
5. An advertisement for the Accessible Unit(s) was provided to NYS HCR and posted on NYS HCR's lottery page for the entire marketing period (<https://hcr.ny.gov/lotteries>).
6. The Housing Provider continues to accept applications for Accessible Units and keeps the waitlist open for Accessible Units, even if the general waitlist is closed.
7. The Housing Provider confirms that it will include as a lease rider the requirement that the household relocate to an available, comparable unit if a household who requires the accessibility features of the Accessible Unit is available to occupy that unit, and the Housing Provider will pay all moving costs associated with the move.

NYS HCR also reserves the right to recommend an alternative course of action instead of issuing the waiver.

### **Recommendations and Best Practices**

It is important to establish local referral sources for the Accessible Units so that when vacancies arise, they are able to be filled by individuals that critically need the accessibility features. If the number of eligible applicants on your Accessible Unit waitlist is fewer than 10 times the number of Accessible Units, it is important to engage in a continuous, robust outreach and marketing effort so that vacancies do not affect the project.

### **Required Outreach and Marketing**

Outreach and marketing must be conducted to the following:

- All methods and community contacts outlined in the Affirmative Fair Housing Marketing Plan;
- The referral agency indicated in the project's NYS HCR funding application and/or marketing plan
- The New York Association for Independent Living (NYAIL): <https://ilny.us/>; (info@ilny.org)
- At least 3 independent living centers or other organizations that serve such persons (<http://www.acces.nysed.gov/vr/independent-living-centers>)
- The District Office for the NYS Commission for the Blind <https://ocfs.ny.gov/main/cb/district-contacts.asp>
- The relevant Student and Youth Services Transition representative: <http://www.acces.nysed.gov/vr/student-and-youth-transition-services>
- The relevant district office for the ACCESS-VR (Vocational Rehabilitation) program: <http://www.acces.nysed.gov/vr/district-offices>
- The local NY Connects office: <http://www.nyconnects.ny.gov/contact-us>
- All hospitals under the "Hospital" tab for the Project's County AND Region that contain the word "rehabilitation" in the title: <https://profiles.health.ny.gov/>

- All nursing homes under the “Nursing Homes” tab for the Project’s County AND Region that contain the word “rehabilitation” in the title: <https://profiles.health.ny.gov/>
- At least 2 not-for-profit organizations that serve people who are blind or have vision loss
- At least 2 not-for-profit organizations that serve people who are deaf or have hearing loss
- New York’s Office of the Chief Disability Officer; <https://www.ny.gov/programs/office-chief-disability-officer> ([accessibility@exec.ny.gov](mailto:accessibility@exec.ny.gov))
- The New York Alliance for Inclusion and Innovation: ([cnapierski@nyalliance.org](mailto:cnapierski@nyalliance.org))
- Helen Keller Services: <https://www.helenkeller.org/contact-us/> ([info@helenkeller.org](mailto:info@helenkeller.org))
- The local Department of Social Services – List available here: <https://ocfs.ny.gov/main/localdss.asp>
- The Health Home agencies for the county: [https://www.health.ny.gov/health\\_care/medicaid/program/medicaid\\_health\\_homes/hh\\_map/index.htm](https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/hh_map/index.htm)
- The 2 closest Healthy Family New York Program Sites: <https://www.healthyfamiliesnewyork.org/sites2.htm>
- The local Continuum of Care organization listed in this map: <https://caresny.org/continuum-of-care/#CoC-Planning-Map>. If there is no organization listed for the area, include the Balance of State Continuum of Care at [bos.nys@otda.ny.gov](mailto:bos.nys@otda.ny.gov)
- The local agency on aging: <https://aging.ny.gov/local-offices>
- Any other referral agency or organization that can make referrals to the general applicant pool and/or waiting list of the Project

Where the contact information is not already provided in the list above, the Owner/Managing Agent must perform diligence to ensure that the email address that they are sending marketing materials to reaches an actual person that works with placement of individuals and/or gathering of resources for individuals. It cannot be a general contact email.

### **Lease Rider that Includes Requirement to Relocate**

Additionally, the applicant not in need of the Accessible Unit’s features must sign a written rider prior to lease-up of the

Accessible Unit. This written rider must contain language that the applicant agrees to move, at the Housing Provider’s expense, within 30 days to an available, appropriately sized, non-accessible unit if the Accessible Unit is needed by an applicant or resident family with a Mobility and/or Hearing/Vision Impairment. The Project should include this policy in their Tenant Selection Plan or other corresponding operating documents. Model language is the following:

*I (name) hereby acknowledge that I have been offered and have accepted possession of (address), (unit). This unit has been designed to be fully accessible, adapted and move-in ready for individuals with a Mobility or Hearing/Visual impairment (hereinafter the “Accessible Unit”). I also acknowledge that at this time, neither myself nor anyone in my household are in need of the features of this Accessible Unit. I understand that by taking this Accessible Unit without the need for its accessibility features, I must move within 30 days at the Housing Provider’s expense to an available, appropriately sized, non-accessible unit if this Accessible Unit is needed by a family with a Mobility and/or Hearing/Vision Impairment.*

### **Reasonable Accommodations**

Nothing in this memorandum hereby waives or replaces any duties with regard to reasonable accommodations. Please see additional guidance and information from the New York State Division of Human Rights [here](#).

Additionally, persons with disabilities must be able to apply to any unit(s) or waitlist(s) that are available on an equal basis as those who do not require accessibility features.

### **Projects Subject to this Policy**

This policy applies to all NYS HCR-funded housing with Accessible Units, as defined above. If you are unsure whether this policy applies to your project, please contact your designated HCR representative.

**How Will this be Monitored**

1. At time of Management and Occupancy Review/Audit, the Housing Provider will provide NYS HCR representative:
  - a. Confirmation and documentation (if requested) that the Waiting list is open for the Accessible Units, continued marketing and outreach is occurring for these units,
  - b. A list of all Accessible Units and tenant disability verification on file.
  - c. If an Accessible Unit is occupied by non-disabled tenant(s), NYS HCR representative will ensure NYS HCR waiver and lease provision are on file.

# **NYSCB-COMPREHENSIVE SERVICES CONTRACTORS PRIVATE AGENCIES FOR THE BLIND**

Reinhard Mabry **Alphapointe**  
87-46 123rd Street  
Richmond Hill, NY 11418  
Phone: (718) 854-7300  
Fax: (718) 854-2700  
Email: [rmabry@alphapointe.org](mailto:rmabry@alphapointe.org)

Jennifer Lake, President & CEO  
**Association f/t Blind & Visually Impaired –  
GOODWILL**  
422 South Clinton Avenue  
Rochester, NY 14620  
Phone: (585) 232-1111, ext. 214  
Fax: (585) 232-8265  
Email: [JLake@goodwillfingerlakes.org](mailto:JLake@goodwillfingerlakes.org)

Carlos Martinez, LMSW, CEO & Executive  
Director  
**Association for the Visually Impaired Inc.**  
260 Old Nyack Turnpike  
Spring Valley, NY 10977  
Phone: (845) 574-4950  
Fax: (845) 574-4944  
Email: [cmartinez@bridgesrc.org](mailto:cmartinez@bridgesrc.org)

Kenny Fernald, President/CEO **Association  
for Vision Rehabilitation & Employment, Inc.  
(A.V.R.E.)**  
174 Court Streets  
Binghamton, NY 13901  
Phone: (607) 724-2428  
Fax: (607) 771-8045  
Email: [kfernal@avreus.org](mailto:kfernal@avreus.org)

Susan Ruzenski, Executive Director  
**Helen Keller National Center**  
141 Middle Neck Road  
Sands Point, NY 11050  
Phone: (516) 944-8900  
Email: [sue.ruzenski@hknc.org](mailto:sue.ruzenski@hknc.org)

Edward Welsh, President & CEO  
**Central Association f/t Blind &  
Visually Impaired**  
507 Kent Street  
Utica, NY 13501  
Phone: (315) 797-2233  
Fax: (315) 797-2244  
Email: [edwardw@cabvi.org](mailto:edwardw@cabvi.org)

Megan Maynard, Executive Director  
**Chautauqua Blind Association**  
510 West Fifth Street  
Jamestown, NY 14701  
Phone: (716) 664-6660  
Fax: (716) 664-1193  
Email: [director@cbavision.org](mailto:director@cbavision.org)

Phil Jessen, Executive Director  
**Glens Falls Association f/t Blind**  
144 Ridge Street  
Glens Falls, NY 12801  
Phone: (518) 792-3421  
Fax: (518) 792-3430  
Email: [Gfab@Mybluelight.com](mailto:Gfab@Mybluelight.com)

Debbie Chaiken, Executive Director **Aurora  
of Central New York, Inc.**  
1065 James Street  
Syracuse, NY 13203-2019  
Phone: (315) 422-7263  
Fax: (315) 422-4792  
TDD: (315) 422-9746  
Email: [Dchaiken@auroraofcny.org](mailto:Dchaiken@auroraofcny.org)

Elizabeth (Liz) Meade, Director of  
Rehabilitation & Placement Services  
**Helen Keller Services f/t Blind**  
180 Livingston Street  
Brooklyn, NY 11201  
Phone: (718) 522-2122  
Fax: (718) 935-9463  
Email: [lmeade@helenkeller.org](mailto:lmeade@helenkeller.org)

