



# GETTING TO “APPROVED!”

*Tips to get your clients approved for subsidized housing  
or HUD housing subsidies.*

Presented by:

Jessica Radbord, Esq., Vermont Legal Aid  
Mike Ohler, Ed.D., Champlain Housing Trust  
June 2021

# What types of subsidies are there?

It is a project-based or tenant-based subsidy?

Is it a term-limited subsidy, or permanent?

Is it a federal or state program?

What are the eligibility requirements? (mandatory v. permissive)

Is there a grievance process for denials? What are the deadlines?

# Project-Based Subsidies

Conant Square Inn Apartments | x

housingdata.org/find-rental-housing/DOARH-property-list/property-detail/conant-square-inn-apartments

The Vermont COVID Emergency Mortgage Assistance Program re-opened May 3, 2021. Click here to apply and read more. For emergency rental assistance, please contact Vermont State Housing Authority.

- 1 bedroom apts: \$606
- 2 bedroom apts: \$728

*\*Maximum tenant-paid + rental assistance. Contact manager to confirm.*

### Contacts

**Management company:** [Housing Trust of Rutland County](#) · [info@housingrutland.org](mailto:info@housingrutland.org)  
**Legal owner:** Conant Square HLP · Executive Director · [info@housingrutland.org](mailto:info@housingrutland.org) · [Housing Trust of Rutland County](#)

### Funding sources

**Low Income Housing Tax Credits:**  
19 apartments ✓

**Home Program:**  
4 apartments ✓

**New Construction/Substantial Rehab:**  
19 apartments ✓

**PBRA units:**  
19 apartments

**Section 8 Project Based Assistance:**  
19 apartments ✓

**VHCB Grant/Loan:**  
19 apartments ✓

**VHFA Financing:**  
19 apartments ✓

Act 68 ✓

**Act 68 Certification Status:** Certified

# Project-Based Subsidies Eligibility Rules

- Programs' admissions rules are determined by:
  - Statute, administrative regulations, federal guidance, handbooks, and notices
  - Local written policies and procedures (that must comply with federal law)
- What will we see in all admissions policies?
  - Project eligibility requirements: Population based (elderly or disabled), immigration status requirements, SSN requirements.
  - Income limits (low, very low, extremely low) and minimums (e.g., 50% of income for projects without subsidies)
  - Preferences for waitlist selection (e.g., displaced due to disaster, DV)
  - Federal law compliance: ADA, Rehab Act, VAWA protections, LEP access
  - Applicant screening criteria (mandatory v. permissive)
- Grievance process for denials, and deadlines to request reconsideration or a hearing/meeting.

# Project-Based Subsidies: Eligibility Rules

- Public housing, 24 CFR Part 960 (all sections available at [law.cornell.edu](http://law.cornell.edu))
  - Admissions & Continued Occupancy Policy, 24 CFR 960.202, 960.203, 960.204
  - Must deny for: (1) evicted from federally subsidized housing for drug-related criminal activity within the last 3 years (unless can demonstrate rehabilitation); (2) current illegal use of a drug; (3) conviction for meth production in federally subsidized housing; (4) lifetime registered sex offender. 24 CFR 960.204. See also 24 CFR Part 5, Subpart I.
    - Abuse of alcohol that interferes with neighbors' health/safety, 24 CFR 5.857.
  - Authorized to deny for lack of “suitability”: failure to meet financial obligations (esp. rent), record of disturbing neighbors, record of property damage or bad housekeeping affected other residents, criminal activity involving violence to persons or property or disturbing neighbors. 24 CFR 960.203(c), 24 CFR 5.855.
  - Right to informal hearing to show “reasonable probability of favorable future conduct.” 24 CFR 960.203(d), 960.208.

# Project-Based Subsidies: Eligibility Rules

- HUD programs:
  - 202/811 elderly/disabled, 24 CFR Part 891
  - S8 new construction, 24 CFR Part 880
  - S8 substantial rehabilitation, 24 CFR Part 881
  - S8 mod rehab, 24 CFR Part 882
  - Section 8 project-based vouchers, 24 CFR 983 (see separate slide)
  - HOME, 24 CFR Part 92
- All have written admissions plans.
  - From 24 CFR Part 5, Subpart L:
    - Mandatory: Evicted from federally subsidized housing within 3 years for drug-related criminal activity, lifetime registered sex offender, current illegal drug use, current alcohol abuse that interferes with health/safety of other residents.
    - Permissive: Within a “reasonable time” before applying, engaged in drug-related criminal activity, violent criminal activity, other criminal activity that would threaten health/safety/peace of other residents or housing provider staff.
  - Admissions plan may include other non-discriminatory restrictions.

# Project-Based Subsidies Eligibility Rules

- Rural Development 515/521, 7 CFR Part 3560
  - Project management plan described admissions criteria. May consider past rental and credit history and relations with other tenants. 7 CFR 3560.152.
  - Right to file grievance for denial, have a meeting with property owner & get a written summary of the meeting, and then pursue a hearing. 7 CFR 3560.160.
- LIHTC, 26 U.S.C. 42(g), Vermont Qualified Allocation Plan
  - Federal law provides income limits, but there are no immigration restrictions.
  - Owner can set non-discriminatory eligibility criteria and preferences and grievance process.
- Other funding types without these restrictions: CDBG, National Housing Trust Fund, VHCB, ARPA

# Tenant-Based Subsidies Eligibility Rules

- Programs' admissions rules are determined by:
  - Statute, administrative regulations, federal guidance, handbooks, and notices
  - Local administrative plans (that must comply with federal law)
- What will we see in all admissions/administrative plans?
  - Special eligibility requirements, e.g., for people with disabilities, veterans, etc.
  - How to apply
  - Preferences for waitlist selection (e.g., displaced due to disaster, DV)
  - Federal law compliance: ADA, Rehab Act, VAWA protections, LEP access
  - Applicant screening criteria (mandatory v. permissive)
  - Grievance process for denials, and deadlines to request reconsideration or a hearing/meeting.



# Tenant-based subsidies

## Eligibility Rules

- Housing Choice Voucher, 24 CFR Part 982
  - Administrative Plan sets out standards, 24 CFR 982.54
    - Must deny for: (1) evicted from federally subsidized housing for drug-related criminal activity within the last 3 years (unless can demonstrate rehabilitation); (2) current illegal use of a drug; (3) conviction for meth production in federally subsidized housing; (4) lifetime registered sex offender. 24 CFR 982.553.
    - Permitted to deny for:
      - Recent criminal activity: Drug-related or violent, other criminal activity that would threaten residents/neighbors of the property
      - Evicted from federally subsidized housing within the last 5 years
      - Terminated from HCV program, ever
      - Current debt to a PHA (does not include debt to a landlord, even if the tenant had an HCV at the time the debt was incurred).
      - Fraud to a PHA, or violent or abusive behavior to PHA staff.
  - VAWA: Can't deny based on domestic violence, dating violence, sexual assault, or stalking.
  - ADA/FHA: Must consider reasonable accommodations for denials where basis for denial is related to a disability.
  - Right to request informal review of denial, 24 CFR 982.201(f).
    - PHA should consider seriousness of case, mitigating circumstances related to disability, effects of denial of assistance on family members not involved in action, rehabilitation.

# Tenant-based subsidies

## Eligibility Rules

CHAPTER 3: ELIGIBILITY

vsha.org/wp/wp-content/uploads/2020/02/03-Adm-Plan-Eligibility\_July-12-2018-marijuana.pdf

CHAPTER 3: ELIGIBILITY 22 / 42 200%

- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

**Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]**

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction under portability. (See Chapter 10.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program

# Tenant-based subsidies

## Eligibility Rules

- Project-based vouchers, 24 CFR Part 983: PHAs are allowed to use their tenant-based voucher funding to allocate the vouchers to a particular housing project.
  - Projects can be owned by the PHA or another entity.
  - PHAs can have one waitlist for both HCVs and project-based, or separate waitlists. (VSHA does separate waitlists.)
  - The PHA screens applicants pursuant to its HCV Administrative plan for the rental assistance.
  - Owner is responsible for tenant screening and selection for occupancy.
    - Owners must have a tenant selection plan. Permitted to review only for payment of rent/utilities; damages/care of rentals; respecting rights of other residents; drug-related criminal activity and criminal activity that threatens health/safety/property of others; compliance with conditions of tenancy.
    - Owners are not required to have grievance process.
- But note, these properties may have layered subsidies, and another subsidy may require appeals.

# Tenant-based subsidies

## Eligibility Rules

- Specialized vouchers:
  - Family unification, not youth, 42 USC 1437f(x), FAQ 10/17/19
    - Same as HCVs, but for families for whom the lack of adequate housing is a primary factor in the imminent placement of the family child or children in out-of-home care or lack of housing is a barrier to return of children from out-of-home care.
  - Mainstream vouchers, PIH Notice 2020-01
    - Same as HCVs, but for people age 18-61 with a disability.
    - No separate waitlist, but can have different preferences from HCVs (e.g., persons exiting institutionalization, experiencing homelessness, etc.)
  - Shelter Plus Care, 24 CFR Part 582 (see also DMH Subsidy Plus Care)
    - Must be homeless with a disability (serious mental illness, substance use disorder, developmental disability, HIV+). Paired with services, so tied to a geographic area.
    - No other admissions criteria.
  - HUD-VASH, 24 CFR 982, 77 FR 17086
    - HOPWA, 24 CFR Part 574



# Tenant-based subsidies

## Eligibility Rules

- Time-limited tenant-based rental assistance:
  - Emergency housing vouchers, HUD PIH Notice 2021-15
  - ESG Rapid Rehousing, 24 CFR Part 576; CoC Rapid Rehousing, 24 CFR Part 578
  - Family unification, youth (3 year limit), 42 USC 1437f(x), FAQ 10/17/19
    - Same rules as HCVs, but for youth ages 18-24 who have left foster care, or will leave foster care within 90 days, and is homeless or at risk of homelessness at age 16 or over.
  - Vermont Rental Subsidy, DCF ESD Procedures P-2695

# WHAT?!!!

- Apply everywhere if not limited by project-eligibility requirements
  - *e.g.*, a 25 year old shouldn't bother applying for senior housing
- Based on the questions asked, if you know there will be a problem, address it up front.
- If denied, it is likely there's an appeal process available. Doesn't hurt to try!

# Getting to “Approved!”

## The Application

- Completion
- Screening:
  - Things that are absolutely required:
    - Basic population eligibility (e.g., senior/disabled housing)
    - Income targeting
    - Regulatory mandates
  - Other eligibility criteria questions
    - Eviction history
    - Credit
    - Criminal history
    - Landlord references, to get:
      - Housekeeping
      - Noise
      - Timely rent payments

# Getting to “Approved!”

## The Application

- In responding to other eligibility questions, sometimes, it’s apparent that there is going to be a problem.
- You can address the problem up front to increase the likelihood of approval.

### SAMPLE QUESTIONS AND PROBLEMS

Question/request	Problem!	Can we provide an explanation for the problem?
Have you ever been evicted?	Client was evicted 2 years ago for clutter/cleanliness.	
Has anyone in your household been convicted of a crime in the last 3 years?	Misdemeanor conviction for possession of a controlled substance 18 months ago.	
Application includes a credit check authorization form	Client has about \$10,000 in delinquent credit card debt and a car was repossessed last year.	



# Getting to “Approved!”

## The Application: Using Legal Arguments

- Reasonable accommodation for a person with a disability:
  - Client has a disability (a physical or mental health condition that substantially impacts a major life activity, like working, thinking, reading, walking, etc. – very broad!)
  - The problem issue is directly related to the disability
  - It’s reasonable to give the tenant a chance because they’ve gotten treatment/supports for that disability-related behavior, so it’s unlikely to recur.
    - Best to get healthcare professional verification to support request.
- VAWA (Violence Against Women Act)
  - Client was a victim of domestic violence, dating violence, sexual assault or stalking. (Provide VAWA certification)
  - Problem issue was caused by the perpetrator or directly related to the DV/SA/stalking
    - Best to provide VAWA certification (self-cert or professional) to support request.
- Debt resolution – bankruptcy



- Tenants must be held harmless for debts discharged in bankruptcy.

# Getting to “Approved!”

## The Application

Question/request	Problem!	Can we provide an explanation for the problem?
Have you ever been evicted?	Client was evicted 2 years ago for clutter/cleanliness.	E.g., client was unable to maintain unit due to disability, now receiving in-home supports through Choices for Care.
Has anyone in your household been convicted of a crime in the last 3 years?	Misdemeanor conviction for possession of a controlled substance 18 months ago.	E.g., client can document successful completion a substance use disorder treatment program.
Application includes a credit check authorization form	Client has about \$10,000 in delinquent credit card debt and a car was repossessed last year.	E.g., DV survivor protected by VAWA from debts of perpetrator <ul style="list-style-type: none"> <li>• And refer to Legal Services VT for bankruptcy help!</li> </ul>

# Getting to “Approved!”

## The Application: Other Strategies

---

- Seriousness of the problem (e.g., just how bad was that disorderly conduct?)
- Client’s side of the story
- Mitigating circumstances
- Removal of household member(s) who caused the problem
- Support services in place
- Rehabilitation/steps taken to address problems
- Effects on other family members if denied

# Getting to “Approved!”

## The Application

- In responding to other eligibility questions, sometimes, it’s apparent that there is going to be a problem.
- You can address the problem up front to increase the likelihood of approval.

### SAMPLE QUESTIONS AND PROBLEMS

Question/request	Problem!	Can we provide an explanation for the problem?
Have you ever been evicted?	Client was evicted 2 years ago for noise/partying.	
Has anyone in your household been convicted of a crime in the last 3 years?	3 disorderly conducts, 3 petit larceny (all misdemeanors)	
Application includes a credit check authorization form	Client has about \$10,000 in delinquent credit card debt and a car was repossessed last year.	

# Getting to “Approved!” The Application is Denied

- Written notice of denial will provide:
  - Reason for denial
  - Notice of appeal process and deadline
  - Notice of VAWA rights, right to request reasonable accommodation
- No harm to appealing!

# Getting to “Approved!”

## The Application is Denied

- Written letter of appeal
  - Where there’s no hearing/meeting available.
  - In advance of a hearing/meeting, especially where you are presenting documents, e.g.:
    - Letters from service providers
    - Reasonable accommodation requests
    - VAWA certifications
- Informal hearings and meetings
  - Who’s there?
  - What’s the process?
    - Housing provider reviews reasons for denial
    - Tenant has opportunity to present arguments/evidence
    - Much more like a non-confrontational conversation than a hearing in court.
    - Note on scope: Limited to what was in the denial notice.
- Written decision on appeal, typically within 14 days (maybe earlier).

# Got questions?

---

Jessica Radbord

802-383-2208

[jradbord@vtlegalaid.org](mailto:jradbord@vtlegalaid.org)

- For intake/advice from VLA/LSV: 800-889-2047 or <https://vtlawhelp.org/vlh-intake>

Mike Ohler

802-578-4657

[Mike.Ohler@champlainhousingtrust.org](mailto:Mike.Ohler@champlainhousingtrust.org)

