

# Legal Basics of Subsidized Housing Rents

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# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLR

The National Center on Law and Elder Rights (NCLR) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLR provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLR through a contract with the Administration for Community Living's Administration on Aging.

# About NHLP

The National Housing Law Project (NHLP) is a non-profit legal advocacy and resource center focused on increasing, preserving, and improving affordable housing; expanding and enforcing the rights of low-income tenants and homeowners; and increasing housing opportunities for underserved communities. NHLP provides technical assistance and policy and litigation support on a range of housing issues to legal services and other advocates in California and nationwide.

# Overview

1. Subsidized housing programs we will cover
2. What does the “rent” include?
3. Rent-setting methods
4. Calculating income for income-based rents
5. *Issues and special situations we won’t be covering*

# Major Programs

- Public Housing
- Section 8 Project-based
- Tenant-based Section 8 (aka Housing Choice Vouchers)
- Section 202 and Section 811
- Rural housing programs
- Low-Income Housing Tax Credit (LIHTC)
- *Watch for overlapping subsidies!*

# Tools for Identifying Applicable Program(s)

- National Housing Preservation Database
  - Searchable by location and/or type of federal assistance
- NOVOGRADAC LIHTC Mapping Tool
  - Information about properties subsidized by federal tax credits
- USDA Multi-family Housing Rentals Map
  - Information about subsidies for rural properties, searchable by location

# Tools for Identifying Applicable Programs (2)

- Local public housing authorities
- City or county websites or housing departments
- Non-profit affordable housing providers

# Basic Terminology (1)

- **Contract rent:** Total amount received by owner.
- **Tenant's rent contribution:** Total amount tenant is required to contribute toward contract rent.
- **Income-based rent:** Tenant's rent contribution calculated as a percentage of tenant's household income.
- **Minimum rent:** Minimum amount of tenant's rent contribution. Set by statute and/or by PHA.

# Basic Terminology (2)

- **Flat rent:** Rent amount based on either fair market rental value of the unit or owner's operating and/or debt service costs.
- **Formula-based rent:** Rent calculated as a percentage of a specified benchmark, such as area median income.
- **Welfare rent:** Tenant's rent contribution set based on shelter costs provided as part of welfare benefits. Rarely used.

# What is included in “rent”?

- Cost of the unit + reasonable utility consumption.
- How do utility allowances work?
- Additional charges
  - Mandatory amenities and services
  - Optional amenities and services

# Example: What is included in “rent”?

- *Example:*

- Income-based rent (30%)
- HH income = \$1,000
- Utility allowance = \$45
- Cable bill = \$50
  - Tenant pays utilities. Landlord pays cable bill. What should tenant’s rent contribution be?

# Rent-Setting Method by Program (1)

## Public Housing:

- *Income-based, flat rents, minimum rents (\$0-50), welfare rents.*

## Section 8 Project-Based:

- *Income-based, minimum rents (\$25), welfare rents.*

## Tenant-based Voucher:

- *Income-based, minimum rents (\$0-50), welfare rents.*
- *The payment standard wrinkle*

# Rent-Setting Method by Program (2)

## Section 202 and 811:

- *Income-based after rental assistance subsidies, flat (operating costs-based) rents.*

## Section 515 (RHS):

- *Income-based after rental assistance subsidies, flat (project costs-based) rents.*

## LIHTC:

- *Formula-based (30% of specified percentage of area median income).*

# Calculating Income (1)

- Can be very complicated!
- “Annual income” – examples of exclusions
  - SNAP, Meals on Wheels
  - Low-Income Home Energy Assistance
  - Adoption assistance in excess of \$480/yr.
  - Foster care payments
  - Certain medical expense reimbursements
  - Disaster assistance
  - Certain lump-sum payments
- Treatment of assets

# Calculating Income (2)

- “Adjusted income”
  - Concept the same across programs, but individual program guidelines may differ in interpretation
  - Examples of mandatory deductions
    - Dependents
    - Elderly or disabled family
    - Disability assistance
    - Medical expenses for elderly or disabled family
  - Optional and contingent deductions

# Resources and Information

- *National Housing Law Project, HUD Housing Programs: Tenants Rights* (the “Green Book”) 5th ed. 2018.
- National Housing Law Project
- National Low Income Housing Coalition
- HUD and RHS handbooks and guidance
- State tax credit allocating agencies (LIHTC)
- Local agencies
  - public housing authorities, state, county and/or city housing departments and housing finance agencies

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# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).