



Tenant Hotline

Phone: 612-728-5767

Online: [homelinemn.org/email](mailto:homelinemn.org)

# Overview of Housing Subsidy Programs

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March 19, 2025 – 1:30-3:00pm

HOME Line Housing Attorney, Rachael Sterling

HOME Line (Work Title), PresenterName

# What is HOME Line?

- HOME Line is a statewide nonprofit organization providing free legal, educational, and advocacy services to Minnesota renters. We have advised over 335,000 renters since 1992.
- Our primary program is a free and confidential legal hotline any Minnesota renter can contact us to receive legal advice specific to their situation, in 4 languages.
- HOME Line has a staff of 24, including attorneys, tenant advocates, and tenant organizers. We also rely on volunteers and interns.



# What is HOME Line?

HOME Line Tenant Hotline:

**612-728-5767**

Toll-free: 866-866-3546

- Para Español, llame al 612-255-8870
- Af- Soomaali wac 612-255-8860
- Hais lus Hmoob, Hu 612-255-7104
- Online: [homelinemn.org/email](http://homelinemn.org/email)



# Upcoming Webinars

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April 23, 2025

Rental Housing Market Analysis  
with HousingLink



# Housekeeping

- This session is being recorded and will be available on HOME Line's website in a few days
- Please ask questions through the Q&A function located at the bottom of the Zoom window
- 1.5 Standard CLE credits will be applied for after this session



# **Most Common Affordable Housing Programs in Minnesota**

**March 2025**

**Heather Mendiola**

**Ben Weiss**



# Overview of the following affordable housing programs

## Federal:

- ❑ **Housing Choice Voucher (“Section 8”)**
- ❑ **Public Housing**
- ❑ **Project Based Assistance**
- ❑ **Project Based Voucher**
- ❑ **Rent Assistance Demonstration (“RAD”) conversions**
- ❑ **Section 42 Low-Income Housing Tax Credit (“LIHTC”)**
- ❑ **Protections: VAWA, CARES Act, HUD 30-day notice requirement**

## State:

- ❑ **Minnesota Housing Support (*fka* “GRH”)**

# Section 8 HCV – in general

- ▶ **Tenant is a “participant” in a local PHA’s HCV program.**
- ▶ **PHA issues a voucher for participant to place in private rental market.**
- ▶ **PHA approves unit on paper (“RFTA”) and once unit passes inspection and tenant has moved in = assisted unit.**
- ▶ **Landlord and PHA sign Housing Assistance Payments (“HAP”) contract.**
- ▶ **Tenant pays 30% of income for rent. PHA pays the rest.**
- ▶ **PHA’s payment to the landlord = HAP payment.**
- ▶ **Tenant recertifies with the PHA.**
- ▶ **In between recertifications, tenant must let PHA know if income or household members change. Could result in change to tenant portion of rent.**
- ▶ **Landlord demands any extra \$ from tenant = illegal side payment under 24 C.F.R. sec. 982.310 and 31 U.S.C. sec 3729 *et seq.***
- ▶ **Initial lease must be 1 year; no requirement to renew.**
- ▶ **No pre-eviction grievance procedure.**



# Section 8 HCV – main legal authorities

- ▶ **24 C.F.R. Part 982**
- ▶ **PHA's HCV Policy**
- ▶ **Lease**
- ▶ **HAP contract**

# Section 8 HCV - common issues

- ▶ **Unit fails initial inspection:** PHA will not pay until it passes inspection. Will not become an assisted tenancy until it passes inspection.
- ▶ **Unit fails a follow-up inspection:** PHA will abate HAP, usually after 60 days will cancel the HAP contract and give tenant a new voucher to place at new unit. 24 CFR sec. 982.404.
- ▶ **Landlord increases rent:** HAP contract and HUD regs require 60-day notice to PHA and tenant. 24 CFR sec. 982.308(g)(4).
- ▶ **Lease termination:** Landlord may only terminate in middle of lease term for serious or repeated lease violation or other good cause – nonpayment of rent; tenant caused damage; drug use on premises; holding over. More than economic harm or inconvenience. 24 CFR sec. 982.310; *Wilhite v. Scott Cnty. Hous. & Redevelopment Authority*, 759 N.W.2d 252, 256 (Minn. Ct. App. 2009). Landlord must give the PHA copy of the notice. 24 C.F.R. sec. 982.310(e)(2)(ii).
- ▶ **Evictions:** If tenant loses, PHA must terminate voucher. 24 CFR sec. 982.552(b)(2). Mandatory termination. Landlord must give the PHA copy of the notice. 24 C.F.R. sec. 982.310(e)(2)(ii).
- ▶ **Termination of assistance:** PHA has discretion to terminate for program violations like not recertifying or reporting income accurately or certain drug-related or violent criminal activity. 24 CFR secs. 982.552 and 982.553. Right to a hearing before payments stop. 24 CFR sec. 982.555.
- ▶ **Voucher expiration:** Minimum 60 days to place voucher; PHA can give more time. Can request more time if disability-related need. 24 CFR sec. 982.303. No clear right to appeal under HUD regs. 24 CFR sec. 982.555(b)(4).
- ▶ **Voucher terminated and HAP contract canceled as matter of law when tenant's portion of rent = contract rent for 180 consecutive days.** 24 C.F.R. sec. 982.455.

# Section 8 HCV – evictions

- ▶ **Non-payment: Does tenant owe the alleged arrears? Can tenant redeem? CARES Act 30-day notice provided?**
- ▶ **Breach: Is the breach material? Evidence?**
- ▶ **Holdover: Is the notice to quit/non-renew compliant with the lease? Was the PHA given a copy?**
- ▶ **Settlement agreements: No findings. (*see Matter of Mitchell's*, No. A20-0740 2021 WL 668060 (Minn. Ct. App. Feb. 22, 2021)). Eviction marked confidential/expunged; neutral reference to landlords and housing authorities. PHA may not allow move if within initial 1 year of lease term. 24 C.F.R. sec. 982.309(a)(1).**

# Section 8 HCV – Tips on how to tell...

- ▶ **“I gave the ... to my worker. My worker said...”**
- ▶ **The “worker” is at a housing authority: PHA, CDA, HRA.**
- ▶ **“I live at a house.”**
- ▶ **HAP contract, Section 8 Tenancy Addendum, RFTA**
- ▶ **“I was told I can get my moving papers.”**
- ▶ **“PHA didn’t pay my landlord, something about the inspection didn’t pass.”**

# Public Housing – in general

- ▶ **Tenant rents from a local housing authority, e.g., PHA.**
- ▶ **Subsidy tied to the unit; not portable if move or evicted.**
- ▶ **We are seeing less and less public housing as defined by federal law and more RAD conversions, meaning converting from the public housing program to either project based or tenant-based subsidies, either required by HUD or allowed by HUD. More on that in a bit.**
- ▶ **Lease may not be terminated or non-renewed except for serious or repeated material lease violations or other good cause.**
- ▶ **Tenant pays 30% of income for rent to the PHA.**
- ▶ **Tenant recertifies with the PHA.**
- ▶ **In between recertifications, tenant must let PHA know if income or household members change. Could result in change to tenant portion of rent.**
- ▶ **There is a pre-eviction grievance procedure.**

# Public Housing – main legal authorities

- ▶ **24 C.F.R. Parts 960 and 966**
- ▶ **Lease**
- ▶ **HUD Public Housing Occupancy Guidebook 7465.1**
- ▶ **PHA's Admissions and Occupancy Policy (“ACOP”)**
- ▶ **42 U.S.C. sec. 1437**

# Public housing – common issues

- ▶ **Amount of rent tenant pays based on either income or on PHA's flat rent. Tenant given choice at admission and each annual recertification. 24 C.F.R. sec. 960.253.**
- ▶ **Lease termination or non-renewal: PHA may only terminate or non-renew for non-payment of rent or serious or repeated violations of the lease, such as certain criminal activity or material false statements or fraud in recertification. 24 C.F.R. sec. 966.4.**
- ▶ **PHA must terminate if any household member has been convicted of the manufacture or production of methamphetamine on premises. 24 C.F.R. sec. 966.4(l)(5).**
- ▶ **If over-income for 24 consecutive months, will have to vacate in no more than 6 months after notice. 24 C.F.R. sec. 960.507.**
- ▶ **Evictions: If tenant loses, evicted from public housing and no subsidy to take with them.**

# Public Housing – lease termination

- ▶ **Right to pre-eviction filing grievance procedure for most lease terminations, except criminal activity that threatens livability; violent criminal activity; or drug-related criminal activity whether on/off premises; or criminal activity that resulted in felony conviction of household member. 24 C.F.R. sec. 966.51. [May be escrow requirement for non-payment of rent if PHA policy in place before March 2016.]**
- ▶ **Termination notice must be at least 30 day if non-payment of rent and “reasonable period of time” if another reason. 24 C.F.R. sec. 966.4.**
- ▶ **Grievance procedure: First, Informal settlement of grievance. Next, formal grievance hearing. If tenant wins, termination over. If tenant loses, PHA must file an eviction in court and start over and prove lease violations to the judge. 24 C.F.R. sec. 966.4(l).**



# Public Housing – lease termination/eviction

- ▶ **Non-payment eviction:** Was lease termination notice given with right to grievance procedures? Is the rent owed? CARES Act notice? HUD 30-day notice?
- ▶ **Breach of lease eviction:** Was lease termination notice given with right to grievance procedures if applicable? Evidence? Amount to serious or repeated violation or other good cause?
- ▶ **Minn. Stat. sec. 504B.268 Right to Counsel for public housing breach of lease evictions.**
- ▶ **Settlement agreement:** Last chance agreement or if vacate, confidential/expungement and neutral reference.

# Public Housing – tips on how to tell

- ▶ **A public housing authority owns and manages the property.**
- ▶ **The lease says, “Public Housing Lease”**
- ▶ **The lease cites to 966.4.**

# Project Based Assistance – in general

- ▶ **Tenant rents from a company, generally a non-profit.**
- ▶ **Subsidy tied to the unit; not portable if move or evicted. Often medium to large multi-family properties.**
- ▶ **Lease may not be terminated or non-renewed except for material non-compliance or other good cause. For ex.: substantial violations; repeated minor like failure to pay utilities; illegal drug use or criminal behavior that affects livability.**
- ▶ **Tenant pays 30% of income for rent to the Landlord.**
- ▶ **Tenant recertifies with the Landlord.**
- ▶ **In between recertifications, tenant must let the Landlord know if income or household members change. Could result in change to tenant portion of rent.**
- ▶ **There is a pre-eviction grievance procedure ALWAYS.**
- ▶ **Grievance procedure: Right to request a meeting with landlord to resolve the dispute. If not resolved, landlord can file an eviction and must prove lease violations to a judge.**

# Project Based Assistance– legal authorities

- ▶ **HUD Model Lease**
- ▶ **HUD Handbook 4350.3**

# Project Based Assistance— common issues

- ▶ **Recertifications and Termination of assistance:**
- ▶ **Annual and interim if income or household composition changes. Tenant must report promptly.**
- ▶ **Landlord must send tenant a series of notices/reminders about recertification. And give tenant opportunity to request a meeting to resolve.**
- ▶ **If the tenant does not timely recertify, the rent goes to the market rate rent amount and the subsidy is terminated.**
- ▶ **Once the recertification is complete, the subsidy is reinstated.**
- ▶ **If the landlord does not follow the required steps and timelines for the notices, the landlord cannot terminate the subsidy.**
- ▶ **The landlord must give the tenant at least 30 days notice of an increase in rent when the tenant reports promptly. Decreases must be applied the first of the next month.**

# Project Based Assistance – eviction

- ▶ **Was a lease termination notice given with right to meeting given before eviction was filed? (*see Hogle-Hall v. Kleinschmidt*, 381 N.W.2d 881 (Minn. Ct. App. 1986)).**
- ▶ **If non-payment, was the notice at least 30 days? CARES Act; new HUD 30-day notice requirement. Is the rent owed? Recertification issues?**
- ▶ **If breach, is the violation material noncompliance? Evidence?**
- ▶ **Settlement agreement: Last chance agreement or if vacate, ask for confidentiality/expungement and neutral reference.**

# Project Based Assistance – tips on how to tell

- ▶ **Property is medium to large size multi-family complex.**
- ▶ **Rent is based on income but there is no worker at a public housing authority. Instead, the tenant reports changes to the landlord directly.**
- ▶ **Lease and paperwork says things like: HUD Model Lease, HUD 50059, HB: 4350.3.**

# Project Based Voucher – in general

- ▶ Tenant is a “participant” in a local PHA’s PBV program.
- ▶ PHA issues a PBV for participant to place at a specific project.
- ▶ Once unit passes inspection and tenant has moved in = assisted unit.
- ▶ Landlord and PHA sign Housing Assistance Payments (“HAP”) contract.
- ▶ Tenant pays 30% of income for rent. PHA pays the rest.
- ▶ PHA’s payment to the landlord = HAP payment.
- ▶ Tenant recertifies with the PHA.
- ▶ In between recertifications, tenant must let PHA know if income or household members change. Could result in change to tenant portion of rent.
- ▶ Landlord demands any extra \$ from tenant = illegal side payment under 24 CFR sec. 982.310 and 31 U.S.C. sec 3729 *et seq.*
- ▶ Initial lease must be 1 year. Landlord may generally only non-renew if it has good cause. 24 C.F.R. sec. 982.310(d).
- ▶ Once the tenant has completed the initial 12 months, the tenant can request an HCV and move with their HCV. The tenant is not eligible for an HCV if they move before then. 24 C.F.R. sec. 983.261.
- ▶ No pre-eviction grievance procedure.



# Project Based Voucher – main legal authorities

- ▶ **24 C.F.R. Part 983 and most of Part 982**
- ▶ **Lease**
- ▶ **PHA policy**

# Project Based Voucher – common issues

- ▶ **The 12-month rule...**
- ▶ **Termination of assistance, same as HCV: PHA has discretion to terminate for program violations like not recertifying or reporting income accurately or certain drug-related or violent criminal activity. 24 C.F.R. secs. 982.552 and 982.553. Right to a hearing before payments stop. 24 C.F.R. sec. 982.555.**

# Project Based Voucher – eviction

- ▶ **Non-payment: Does tenant owe the alleged arrears? CARES Act 30-day notice provided?**
- ▶ **Breach: Is the breach material? Evidence?**
- ▶ **Settlement agreements: No findings. (*see Matter of Mitchell's*, No. A20-0740 2021 WL 668060 (Minn. Ct. App. Feb. 22, 2021)). Eviction marked confidential/expunged; neutral reference to landlords and housing authorities. Need to remain in unit to satisfy initial 12-month lease term to receive HCV.**

# Project Based Voucher – how to tell

- ▶ **Rent based on income and tenant recertifies with the PHA. But the lease is with the tenant and the landlord.**
- ▶ **But tenant told they must stay in the unit for at least 12 months and no right to move with subsidy before then.**
- ▶ **Building might have supportive services and probably a non-profit: Jackson Street Village, Liberty Plaza, Rivertown Commons...**

# RAD conversions...

- ▶ **RAD = preservation tool that can be used to convert public housing units to either Section 8 Project Based Rent Assistance (“RAD PBRA”) or Project Based Vouchers (“RAD PBV”).**
- ▶ **Landlord is still the public housing authority, and the units remain the same, but the applicable rules change depending on whether the conversion is RAD PBRA or RAD PBV.**
- ▶ **St. Paul PHA converted most of their public housing to RAD PBRA. *See* rules for Project Based Assistance.**

# Section 42 Low-Income Housing Tax Credit – in general

- ▶ **Not a subsidized tenancy. Not a HUD program but a Department of Treasury program.**
- ▶ **Federal government allocates tax credits and state housing agencies distribute the credits, monitor compliance, and report to the IRS.**
- ▶ **Properties get the tax credits and in return must keep the rent at rent limits that are a percentage below market rate. Based on a percentage of area median incomes, often no more than 60%.**
- ▶ **Designed to encourage private investment into affordable housing.**
- ▶ **Must accept Section 8 HCV. 26 U.S.C. sec. 42(h)(6)(B)(iv).**
- ▶ **In Minnesota, Minnesota Housing, MN's state finance agency, is the primary apportionment agency and a few cities and counties are designated as suballocators: Minneapolis, St. Paul, Rochester, St. Cloud, and Washington County. MN Housing and each suballocator issue a Tax Credit Compliance Monitoring Manual.**

# Section 42 LIHTC – main legal authorities

- ▶ **26 U.S.C. sec. 42**
- ▶ **26 C.F.R. sec. 1.42**
- ▶ **Tax Credit Compliance Monitoring Manual:**
  - ▶ **MN Housing: [www.mnhousing.gov](http://www.mnhousing.gov)**
  - ▶ **Suballocators: <https://ahcinc.net/section-42/>**

# Section 42 LIHTC – common issues

- ▶ **Good cause is required to terminate or not renew the lease. 26 U.S.C. sec. 42(h)(6)(E)(ii)(I); *Cimarron Village v. Washington*, 659 N.W.2d 811, 815 (Minn. App. 2003).**
- ▶ **In general, the compliance manuals require the good cause be provided in any lease termination notice, non-renewal notice, and/or eviction complaints.**
- ▶ **Rent may only be increased once every 12 months. *See* applicable tax credit compliance manual.**



# Section 42 – evictions

- ▶ **Non-payment:** Is the rent amount within the rent limits? If rent increase, is it only one in last 12 months?
- ▶ **Holdover:** No such thing. Must allege and specify the good cause.
- ▶ **Breach:** Must prove good cause.

# Section 42 – how to tell...

- ▶ **Lease has a Section 42 Addendum.**
- ▶ **The rent is not based on income but seems lower than market rate rent.**

# Violence Against Women Act

- ▶ **VAWA was reauthorized in 2022.**
- ▶ **34 U.S.C. sec. 12491, *et seq.***
- ▶ **Applies to all the housing programs I have covered, including Sec. 42.**
- ▶ **Generally, under VAWA, you cannot be denied admission, assistance, or evicted or terminated from any of these housing programs on the basis of domestic violence, dating violence, sexual assault, or stalking.**
- ▶ **<https://www.hud.gov/vawa>**

# CARES Act

- ▶ **Federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), effective March 27, 2020.**
- ▶ **15 U.S.C. sec. 9058(c)**
- ▶ **30-day notice required (for all federal housing programs covered in this presentation as well as some others) when tenant is behind on rent.**
- ▶ **No appellate decision in Minnesota but there have been some district court decisions holding that a landlord may not file a non-payment of rent eviction until the notice period ends.**
- ▶ **Across the country, there have been appellate and supreme court decisions and majority have held that the landlord must let the notice expire before filing the eviction, but the Iowa Supreme Court recently ruled that the 30-day notice requirement only applies to rent defaults that happened during the initial 120-day eviction moratorium back in 2020.**
- ▶ **<https://www.nhlp.org/covid/federal-eviction-moratorium-the-cares-act/>**

# HUD 30-day Notice Rule

- ▶ **Effective January 13, 2025, and applies to Public Housing, Project Based Rent Assistance, and RAD PBRA (not Sec. 42 and not HCV or PBV).**
- ▶ **Similar notice requirement effective January 16, 2025, applies to RAD PBV.**
- ▶ **Landlord must provide at least 30 days' written notice of eviction for non-payment of rent. Must not file eviction within the 30 days.**
- ▶ **<https://www.nhlp.org/press-release/the-national-housing-law-project-applauds-huds-final-rule-on-30-day-notice/>**

# Housing Support – in general

- ▶ **State public assistance program operated by counties under supervision of MN Dep't of Human Services**
- ▶ **Formerly Group Residential Housing (“GRH”)**
- ▶ **In addition to traditional group homes, pays nonprofits to subsidize rent and provide supportive services for people in private market housing**
- ▶ **Limited to individuals with disabilities**
- ▶ **Nonprofit must be licensed through state Dep't of Health or Human Services, *or* HUD-funded supportive housing for long-term homeless, *or* “supportive housing establishment with habitability inspection and individual lease agreement”**
- ▶ **Eff. 10/1/24, if supportive housing with inspection and lease agreement, tenant portion = 30% of income; nonprofit pays the rest w/ county funds**
  - ▶ **For MFIP recipients, rent portion capped at \$250/mo less personal needs allowance (\$128/mo for 2025)**
  - ▶ **In other settings, tenant pays all income except personal needs allowance**

# Housing Support – main legal authorities

- ▶ **Minnesota Statutes chapter 256I**
- ▶ **MN Dep't of Human Services Combined Manual**
- ▶ **Housing Support agreement between nonprofit and county (must include list of circumstances that could result in resident eviction)**
- ▶ **Law applicable to type of license nonprofit holds**
  - ▶ **For HUD-funded supportive housing, 24 C.F.R. part 578**

# Housing Support – common issues

- ▶ **With private landlord – can evict based on state law**
  - ▶ **BUT nonprofit provider should help with resources in nonpayment cases and intervene with tenant in breach cases**
  - ▶ **Nonprofit provider should help find tenant other housing**
- ▶ **With county – right of appeal to MN DHS**
  - ▶ **Nonprofit should assist with renewal paperwork, but counties are backed up**
  - ▶ **10-day termination notice required**
- ▶ **With nonprofit provider – also right of appeal to DHS**
  - ▶ **Are they following all requirements of their license status and Housing Support agreement before evicting (site-based) or closing services (scattered-site)?**
  - ▶ **Worth complaining to county if provider isn't helping client address barriers or issues**



# Housing Support – how to tell...

- ▶ **Scattered-site**
  - ▶ **Tenant is paying 30% of income and the rest is coming from county human services department**
  - ▶ **Nonprofit social service provider is involved in matching tenant with housing and represents that they will continue providing services**
  - ▶ **Nonprofit asks landlord to complete shelter form or provide lease for county**
- ▶ **Site-based**
  - ▶ **Operated by a nonprofit**
  - ▶ **Portion of rent comes from county human services department**

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side of the frame, with some extending towards the center. The overall composition is clean and modern.

**Questions?**



## Tenant Hotline:

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Online: *[homelinemn.org/email](mailto:homelinemn.org)*

- HOME Line ofrece servicios en español. Para Español, llame al 612-255-8870.
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- Peb lub koom haum HOME Line muaj neeg txhais lus Hmoob. Hais lus Hmoob, Hu 612-255-7104.



Thank You