



Rural Delivery

New York State Rural Housing Coalition, Inc.

November, 2016

Solar Begins To Benefit Low Income Housing

In southern California, Community HousingWorks (CHW) in San Diego, is at the vanguard of turning multifamily, low-income buildings into solar energy generators—and users. CHW builds and manages attractive, affordable living communities across San Diego County that incorporate after-school, financial education and leadership training for tenants. In 2007, they built the first low-income, multifamily building in the country to be fully powered by solar energy. “That was the beginning of the journey,” says CHW’s long-time director, Sue Reynolds. Now, renewable energy is part of the organization’s modus operandi—a tool to trim tenants’ utility bills as well as their own.

By the end of 2016, Community HousingWorks will be powering 2,300 homes with solar energy, and has already cut residents’ monthly utility bills by as much as half or more. Those conversions, moreover, will account for nearly five percent of a federal goal to install a gigawatt of solar energy—that’s about 700,000 homes’ worth of power—in affordable housing across the United States by 2020. CHW has pulled this off by leveraging state incentive programs when they’re available, as well as through financing from partners at Everyday Energy, which specializes in devel-

oping solar systems for multifamily affordable housing, and SolarCity, one of the country’s largest solar energy companies.

“Bringing the value of solar to low-income housing is a scalable model that solves big problems” says Sochiata Vutthy, senior asset manager for CHW. “It’s one way to keep costs down and predictable, so that people can manage the household balance sheet, gain some stability and live with dignity. Environmental consciousness and savings shouldn’t be restricted to one group of people.”

The savings and carbon offset of solar is especially dramatic in the inland areas of California, where summer temperatures hover in the 100s and air conditioning is a fact of life. Carole Dills moved to Poway, CA, in the sunbaked hills northeast of San Diego. “There are times when my utility bill is only four dollars a month,” says Dills. “That means I have money in my budget for food, or to go out with my friends.”

As someone who grew up attuned to her natural surroundings, Dills is totally onboard with the conservation ethos. (In drought-parched San Diego County, water conservation is central to CHW’s program, too: Dills waters her plants with gray water, and carefully times her showers.) But many residents need some

guidance on the path to solar conversion, and CHW staff educate renters about what to expect from the conversion.

“People ask about what happens if there’s no sun for four days, or where they’re going to park during construction, or whether they’re going to have enough power to run their coffee maker,” says Vutthy. “But for the most part, they’re excited. Especially when they see the bill.” Typically, energy costs plummet after the first month of solar conversion.

Solar power still only accounts for one percent of our nation’s energy use. But it’s a start. And in an uncertain world, reliable savings from solar energy provides CHW’s tenants with peace of mind. As Sue Reynolds puts it, “when you’re measuring out your dollars with a teaspoon, predictability is huge.

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Rural Delivery

Rural Delivery is published by the
New York State Rural Housing Coalition, Inc.

The Coalition is a non-profit statewide membership organization dedicated to strengthening and revitalizing rural New York by assisting housing and community development providers.

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Rural Delivery is published monthly and delivered electronically to a mailing list of 200 community development professionals and policy makers.

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Bits and Pieces...

Capital Funding Deadline December 7th

The final deadline for 2016 Capital Unified Funding applications is December 7th. NYS Homes and Community Renewal set 3 deadlines for capital funding this year- October 6th for Early Round proposals; November 8th for Supportive Housing applications; and December 7th for any projects that don't meet either of the earlier definitions. For more information, see the NOFA at www.nyshcr.org/Funding/UnifiedFundingMaterials/2016/2016-UF-NOFA.pdf.

Survey On Tax Credit Usage

The Rural Housing Coalition has an open survey for rural housing agencies on their experience using low income housing tax credits and the need for training on this subject. If you have not yet responded to the survey, and would like your voice heard, please visit our Survey Monkey site at www.surveymonkey.com/r/?sm=WJMVQySWE9YMOIPPLTmKgg_3D_3D.

Going Solar

NeighborWorks (R) has a blog entry with information on financing solar arrays for single family homes. If you are working to rehab homes where solar energy generation makes sense, this is a useful and quick read: www.neighborworks.org/Blog/Paying-for-solar-tips-for-financing-residential-system.

Land Use Conference

The Land Use Law Center at Pace University will hold the 15th annual Alfred DelliBovi Land Use and Sustainable Development Conference on December 8th. This year's conference is focused on economics and equity in sustainable development. For more info, visit: <http://law.pace.edu/annual-conference-2016>.

Federal and U.S. military employees can support the Rural Housing Coalition through the annual Combined Federal Campaign (CFC). If you are a federal government or military employee and would like to donate through the CFC, please enter CFC code #9614 on your pledge card during the next fund drive.

Harmonious Homes: Understanding The Intersection of Family Stability and Housing

Please join the Fair Housing Law Center, New York State Division of Human Rights and New York State Homes and Community Renewal as they present: **Harmonious Homes: Understanding the Intersection of Family Stability and Housing.**

This training will be held on November 3, 2016 from 9:00 AM – 3:00 PM at NYS HCR, Hampton Plaza, 38-40 State Street, Albany, NY 12207.

Agenda:

- Overview of Fair Housing Laws
- Panel A: Familial Status and Sex Discrimination Rental Market

- Panel B: Discrimination and Disparities against Women in Mortgage Lending
- Lunch and Networking (*Lunch TBD)
- Panel C: Fair Housing for Survivors of Domestic Violence
- Panel D: Advocacy, Policy and Process
- Adjournment

Check in begins at 9:00 AM. For questions regarding registration, lunch or parking please contact jaime@splas.org. To register, visit www.eventbrite.com/e/harmonious-homes-understanding-the-intersection-of-family-stability-and-housing-tickets-28392081480#tickets.

EPIP Loans Assist Restoration Of Historic Properties

The Preservation League of New York State offers loans in support of restoration of historic buildings in New York State. The Endangered Properties Intervention Program, or EPIP, helps individuals, not-for-profit organizations, companies and municipalities return endangered historic properties to active use.

EPIP Fast Facts

- Maximum loan is \$200,000.
- In some circumstances, the loan can be structured as a revolving line of credit to permit more work to be accomplished.
- Interest rate varies by project, but is typically around 4%.
- Loan fee of \$250 is due at closing. Borrower pays legal costs for closing.
- Borrowers typically pay interest only during the term of the loan.
- The term of the loan is up to 3 years.
- Collateral varies by project but

prior loans have been secured by assignments of grants or other identified funding sources (tax credits, fundraising pledges etc.); mortgages on real estate; cash; business assets and/or personal guarantees.

- Property must be historically significant and located in New York State.
- Work proposed must conform to the Secretary of the Interior's Standards for Historic Preservation.

The EPIP program is both focused and flexible. Despite its focus – the preservation of historic structures – the program remains flexible and each loan is structured according to the needs of the applicant. This loan program provides a unique opportunity to finance preservation projects at affordable rates. For more information, visit: www.preservenys.org/uploads/3/1/6/2/31626961/epip-brochure-0914.pdf.

Governor Releases First Supportive Housing Awards

In late September, Governor Cuomo announced the winners of the first round of funding of the 5 Year Plan for Supportive Housing development across New York. These awards will finance the development of 1,200 units of housing in 40 different counties. Only two of the awards went to RPCs, RUPCo in Ulster County; and Arbor Development/SCAP in Steuben County. ETC Housing, a Rural Housing Coalition member, was also an awardee.

The conditional awards follow a June NOFA to demonstrate how proposals specifically address a gap in homeless housing services, using federal, state, and local data to identify need. They are being financially supported by multiple funding streams, including the first \$150 million of a \$2 billion memorandum of understanding, \$63 million from the Homeless Housing and Assistance Program and other capital resources, \$230 million of federal tax credit equity, and \$94 million in service and operating contracts over the next five years.

It appears from the awardee list that most of the awards are in more urban communities. It is unclear at this time whether the lower level of rural grants is the result of fewer applications or reflects the difficulty in coordinating appropriate programs of support services for special needs populations in rural communities.

To read the complete press release, visit www.governor.ny.gov/news/governor-cuomo-announces-awards-development-first-1200-supportive-housing-units.

Perspective: The Architect

In our regular feature, Rural Delivery invites members of the Rural Housing Coalition to highlight a facet of community development projects and programs in the pages of this newsletter. This month, we are pleased to offer this column to Timothy Brinduse, RA, Principal of TAB Design Architects in Geneseo.

Each year NYS Not For Profit Housing Providers assemble teams that work together on funding applications. A key member of that team is the Architect. How do you find, and how do you know, if a given design professional is right for the task at hand? Legally all Architects are created equal, but in reality some are better suited to help you “get those extra points” so critical for a “successful conclusion.” Here are some factors to consider.

Agency Experience: Obviously, previous experience with one or more agencies is a plus. Firms with long track records naturally understand the scope of the work at hand. Design standards vary agency to agency. How many square feet of storage for each apartment unit? What quality of windows are required? These and hundreds of other questions need to be answered. That is where a long history of service really matters. Often more is required of the Architect than just design work and awareness of that expanded role is crucial.

Awareness of User Needs: A good

Architect is aware of the functional needs of a given population. Families relate to their neighbors differently than seniors do. Supportive Living requires an understanding of the special needs of service programs for the residents. This concept goes beyond the internal requirements of the Project. How a project fits into a given neighborhood is very important. Remember that even though NYS design requirements may apply the same to all, every housing project is by definition, local.

Affordable Construction: This is a big one. Bricks and sticks matter. There are hundreds of ways of building and most of them are not cost effective. Maintaining quality pays for itself in the long haul, but first you have to be able to build the project. Layouts utilizing standard building units, heating systems and design features affect price, but quality design is important too. A

32 Unit Apartment Building with just four corners might be the cheapest way to go, but it probably will look like a barracks. A good Architect is really a good builder too. They understand affordability, but also are aware of what it takes to design a project that works.



High Fashion vs. High Function: Beware of Architects that talk like fashion designers. Following the latest trends and making the

cover of an architectural magazine are often the primary reason for being for glitzy “Starcitects.” Choose an Architect that is interested in your Project and the needs of the population you serve. These are ones that will help you.

Walking the Tight Wire: We all want our projects to be beautiful. We want them to work and most of all we want them to be funded. Many factors go into a good design. It is a balancing act and it can be perilous. Find a good Architect and half the battle is won.

Good Luck!

Rural Advocates To Convene In Cooperstown

TUESDAY, NOVEMBER 15 - WEDNESDAY, NOVEMBER 16, 2016

OTESAGA RESORT HOTEL

60 LAKE STREET, COOPERSTOWN, NY 13326

Online Group Code: 1708543

For info: Blair Sebastian <nysruraladvocates@gmail.com>

Overtime Rules Change In One Month

December 1st is the start date for the new minimum threshold for salaried employees. The new Department of Labor rules affect exempt salaried employees. On December 1st, the minimum salary for exempt employees rises to \$47,476. Salaried employees earning less than that amount will now be classified as non-exempt, and eligible for overtime pay. Effectively, the new rule redefines salaried employees earning less than \$47,476 as hourly employees. This change will obviously affect budgets, as overtime costs will now apply. It will also affect the day-to-day routine of impacted staff, as they will now be required to track their time, will have to charge off time during the workday used for doctors appointments or other personal business, will no longer be permitted to stay late to finish an important project, and employers will be less likely to permit telecommuting, due to the difficulty of tracking time. Employers can face steep fines if employees violate the new rules.

Communicating this change is likely to become a headache for management. Some employees will balk at losing their salaried status, while others will push back at the imposition of time tracking systems.

Useful guidance for managers is found at www.inc.com/suzanne-lucas/how-to-tell-your-salaried-employees-they-are-now-hourly.html.

Background on this subject is available at www.inc.com/suzanne-lucas/if-youre-exempt-earning-less-than-47476-per-year-your-life-is-changing.html.

Career Opportunities

Executive Director

A diverse, mission driven anti-poverty agency in Western New York State, providing services in New York, Pennsylvania, and Ohio, is seeking an innovative and dynamic Executive Director.

Services currently include health, early education, youth, family, child care resource and referral, economic development, community development, business and personal lending and are evidence based. All services are integrated and track and measure impact and individual and community progress.

Minimum Qualifications: Experience in executive management with a vision for social enterprise and community impact. BA/BS in human services or management with a minimum of five years of senior management level experience. Advanced degree preferred.

Salary Range: \$80,000 - \$100,000; Limited Relocation Support. To apply go to www.chautauquaopportunities.com, Choose the 'Employment Tab'.

EOE

Agricultural Loan Specialist

USDA has a job opening in its Greenwich, NY (Washington County) office for an Agricultural Loan Specialist. Farm Loan Officer's (FLO's) are required to successfully complete all of the requirements of the Farm Loan Training Program. FLO's may be reassigned to another training office during their training program. In addition, upon completion of training program, FLO's may be reassigned, at any time, to a different duty station if workload activity changes or vacancies occur. This position works in a developmental capacity receiving on-the-job and classroom training in the administration of farm loan programs. This position assists the Farm Loan Manager in administering farm loan programs in a USDA Service Center serving one or more Counties. Major responsibilities include: making, servicing, and supervising loans; providing technical advice, guidance, and credit counseling to loan applicants and borrowers; has delegated loan approval authority to approve loans within a specific limit; has knowledge of agency farm loan programs and eligibility requirements; has knowledge of the technicalities of farm financing and credit, financial management concepts and practices, farm operations, land use and value, production and marketing of various crops and livestock, and prices and markets in the serviced farming areas. Masters degree or equivalent required. Up to 25% travel required.

For more specifics, visit: www.usajobs.gov/GetJob/ViewDetails/452735000/.

EOE

The New York State Rural Housing Coalition is happy to be able to provide help wanted advertising opportunities for our members and non-profit community development agencies. Ad copy must be provided in Microsoft Word format, and may be transmitted by email to rhc@ruralhousing.org. Ad copy must comply with federal and state equal opportunity requirements to be published, and must be received by the 25th of the month to ensure placement in the succeeding issue of *Rural Delivery*. Ads provided in this fashion will also be posted in the Career Opportunities page of the Coalition's website, unless a request is specifically made not to place the advertisement on-line.

FHA Small Buildings Risk Sharing Initiative

Much attention is paid to preserving and constructing mid-size and large affordable multifamily rental complexes, and rightfully so. Those complexes house a considerable number of people and their preservation is important. Equally important, but often less talked about, is the need to preserve smaller rental properties. Thanks to a new federal program, owners of complexes with as little as five units will soon have a new option to obtain much-needed preservation funding.

Although the US Department of Housing and Urban Development (HUD)/Federal Housing Administration's (FHA) stable of insurance products offer multifamily developers an array of financing solutions, the upfront costs can be viewed as a barrier to those seeking fixed rate mortgages for smaller properties. Being aware of this issue, FHA has instituted the Small Buildings Risk Sharing (SBRS) initiative. Effective January 2016, FHA Multifamily Accelerated Processing (MAP) lenders are eligible to apply for the demonstration program under the Housing and Community Development Act of 1992, Section 542(b).

"We announced the Small Buildings Risk Sharing initiative last year as a way to increase the supply and preservation of small affordable rental housing and attract new lenders to this underserved segment of the market," said Priya Jayachandran, deputy assistant secretary of multifamily housing programs at HUD.

When the program was first announced in 2015, those eligible included community development finance institutions (CDFIs), public and quasi-public agencies and other nonprofit lenders. The program was expanded in January of this year to

include MAP lenders.

"All lenders must go through a two-stage application process. Once HUD approves lenders, they will enter into a risk sharing agreement and then can submit loans for approval. The cornerstone of the Risk Sharing Program is that the lender shares half of the insurance risk with FHA and can access capital at favorable rates through the Federal Financing Bank (FFB). HUD is currently reviewing lender applications and anticipates issuing approvals soon."

Prior to the announcement of the SBRS program, only Fannie Mae and Freddie Mac were able to have active risk-sharing programs with HUD.

Program Loan Requirements

SBRS loan amounts are limited to \$3 million or \$5 million in high cost areas annually designated by

HUD. The proposed property must be an existing development needing rehabilitation or refinance and determined to be "broadly affordable." New construction loans are not currently available under the program. The SBRS loan will be in a first lien position with a fixed interest rate. The mortgage insurance premium (MIP) for loans qualifying as broadly affordable is 25 basis points as of January 28, 2016. Amortization periods can range from a minimum of 30 years to a maximum of 40 years. The loan can also be structured with a 15-

year term and a balloon payment.

As with other FHA loan products, MAP lenders will use their own underwriting standards. Lenders will determine the appropriate loan terms and conditions based on the program standards. Applications will be submitted to and reviewed by HUD's regional/satellite office in the geographical area where the property is located. The SBRS loans may be "insured upon completion" or "insured advances."

Development Requirements

To qualify for the SBRS initiative, the development must be an existing property, and evidence physical occupancy of 93% or better in the last year. The development must also be considered affordable housing as defined by the low-income housing tax credit (LIHTC) program with either: at least 20% of total units

Continued on Page 7, Col. 1

Your Ad Here

Advertising in Rural Delivery is a great way to get your message out to your colleagues, policy makers, and folks that are interested in community development and safe housing.

Rural Delivery ads are affordable and customizable. Discounts on advertising rates available to members of the Rural Housing Coalition.

For more information, call Colin at (518) 458-8696x14

Risk Sharing, Cont'

Continued from Page 6, Col. 3

occupied by households with incomes at or below 50% of the area median income (AMI); or at least 40% occupied by households with incomes at or below 60% of AMI. For properties with rental assistance agreements, rents for underwriting must be the lesser of market rents or those collected under the agreement. At minimum, the land use restriction agreement (LURA) will remain with the land for the life of the loan.

A SBRS qualifying project will have five or more rental dwelling units, but the buildings may be detached, semi-detached, row house or multifamily structures. In addition, the buildings may be located on scattered sites as long as the distance of the sites allows for "convenient and efficient management" as defined by HUD. Single room occupancy (SRO) properties are eligible but must be subject to 30 day or longer leases.

Keeping in line with current HUD policies, all physical needs identified in the necessary capital needs assessment must be addressed either through the scope of work of the proposed rehabilitation or through adequately funded reserves. On a positive note for developers, compliance with Davis Bacon is not required.

Risk Sharing Program

As stated above, the SBRS initiative utilizes the existing Risk-

Sharing program platform that allows delegated processing, decision making, and closing procedures. A key difference between FHA's traditional programs and the Risk Sharing program is that FHA has more stringent eligibility standards for lender participation and sets larger reserve requirements to reduce counterparty risk. In addition, Risk Sharing loans are not permitted to be assigned to another lender. The limited review by HUD includes previous participation, environmental, appraisal, and subsidy layering.

Ginnie Mae (GNMA) securitization is not currently available, but HUD is looking at statutory changes that would remove income restrictions and allow GNMA securitization. Until then, lenders participating in the SBRS initiative will have access to low-cost, long-term financing through the FFB. The guidelines for FFB utilization by lenders are still being finalized.

The SBRS initiative provides new opportunities for owners of small properties, often in rural communities, to access low-cost capital to preserve affordable housing for its tenants. Once again, HUD has introduced a new program to advance its mission of providing quality, affordable housing to all, and those in the housing industry surely welcome the addition.

Many thanks to our friends at Lancaster Pollard for this article. www.lancasterpollard.com.

DFS Fines California

Lender

The state Department of Financial Services announced on October 20th that they have entered into a consent order with Future Income Payments, LLC (FIP), and its owner Scott Kohn, requiring them to return ill-gotten funds to consumers, pay a \$500,000 fine, and ban them from engaging in all consumer-related transactions within New York State and with any NY resident. The DFS investigation found the company intentionally misrepresented the transactions which involved pensioners borrowing lump sum payments in exchange for some or all of their monthly pension benefits. Under the consent order, FIP will be required to forgive certain debts, make refunds to other pensioners and install a DFS-selected third-party administrator to oversee consumer refunds and loan forgiveness. FIP marketed its product as a way for pensioners to get cash quickly. Consumers signed agreements with FIP to get one-time lump sum payments and in exchange, made monthly payments of their pensions to FIP for periods of up to 10 years. DFS's investigation found that FIP made loans to 282 New York pensioners between March 2012 and April 2015. The loans ranged from \$2,500 to \$58,500.

Based in Irvine and Corona del Mar, California, FIP was formerly known as Pensions, Annuities & Settlements, LLC. It uses marketing affiliates operating under the names Cash Flow Investment Partners, LLC, Pension Advance, LLC, and BuySellAnnuity, LLC. DFS urges anyone who suspects that they have been the victim of a pension advance scheme to contact DFS's Consumer Help Line at (800) 342-3736 or log onto www.dfs.ny.gov for assistance.

HAC Conference November 30-December 2

The biennial HAC Rural Housing Conference brings together stakeholders in the field of rural affordable housing from local nonprofits, federal agencies, Congress, state and local governments, and other industry leaders in Washington, DC for two-and-a-half days of training, discussion and networking. For more information, visit: www.cvent.com/events/hac-2016-rural-housing-conference-building-rural-communities/event-summary-1869c6037d6340ba9e9bc35c252522a2.aspx?RefID=55541900-1.

Guidance Issued On Housing Applications From Convicts

The Fair and Equitable Housing Office at NYSHCR has issued guidance on how to process and evaluate applications for assisted housing from persons with criminal convictions. This guidance incorporates HUD regulations and balances the needs of local housing agencies to protect their other residents, and their reputations in the community. The review checklist was developed by FEHO.

The upshot of this guidance is that the intake process for applicants with convictions in their history need to be evaluated carefully, with prospective tenants not denied housing based on simply having a conviction.

That being said, there are two types of convictions that HUD has determined to be automatic disqual-

ifiers for occupancy in federally-assisted housing- being convicted for operating a meth lab, or lifetime sex offender registrants.

The housing provider may only consider prior criminal convictions or pending arrests. Prior arrests and/or accusations that did not result in a conviction may not be considered. Any convictions that have been excused by pardon, overturned on appeal or otherwise vacated may not be considered.

When conducting a background check of an applicant, the housing provider must use a reputable background check company. Further, the housing provider must comply with the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et. seq.

The housing provider must main-

tain records of all applicants and applications for a minimum of two years. All Applicants must be given an opportunity to review and explain any conviction record to the housing provider before any decision regarding tenancy is made .

If an application is denied, the Applicant must be provided with any documentation used to deny his or her application, an explanation of the denial of housing, and be given an opportunity to respond. There may be no less than fourteen business days between an applicant receiving the notice and documentation used to deny the application and the Applicant's opportunity to respond.

The full text of the Guidance is attached, beginning on the next page of this newsletter.

Visit our website at www.ruralhousing.org
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79 North Pearl Street
Albany, New York 12202

Illegitimi Non Carborundum

NEW YORK STATE HOMES & COMMUNITY RENEWAL

Guide for Applying New York State's Anti-Discrimination Policies When Assessing Applicants for State-Funded Housing Who Have Criminal Convictions

This document gives housing providers guidance for applying New York State's antidiscrimination policies when assessing applicants for state-funded housing who have criminal convictions. These policies are found at 9 NYCRR §1627.72 (New York funded public housing); NYSHCR Section 8 Administration Plan, §1.09.02 (July 2015 Revision); New York State Housing Finance Agency Fair Housing and Tenant Selection Guidelines, §4.1.2.3. (July 2015 Revision); Management Bulletin Memorandum 2016-B-04; and Capital Programs Manual § 7.05.

Along with this guide, housing providers should use the accompanying worksheet (explained in-depth below) to make their determination.

General Policies

The housing provider may only consider prior criminal convictions or pending arrests.¹ Prior arrests and/or accusations that did not result in a conviction may not be considered. Any convictions that have been excused by pardon, overturned on appeal or otherwise vacated may not be considered.

- The housing provider may only consider convictions or pending arrests for offenses that involved physical danger or violence to persons or property or that adversely affected the health, safety and welfare of other people.
- Even where convictions for such offenses exists, those convictions cannot be an automatic bar to the applicant being selected for housing. The housing provider must do an individualized assessment of all applicants.
- In this assessment no one factor can be considered in isolation; the interplay between the factors must be taken into account (e.g. a reviewer may look for stronger evidence of rehabilitation if an applicant has a more serious crime).
- When conducting a background check of an applicant, the housing provider must use a reputable background check company. Further, the housing provider must comply with the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et. seq.
- The housing provider must provide the applicant with an application that includes information that explains the procedures and policies with regard to background checks, the applicant's right to review, contest, and explain the information contained in the background check, and the applicant's right to present evidence of rehabilitation.

¹ Pending arrests are recent arrests that have not yet been resolved through the judicial process. As it is possible that old unresolved arrests that appear on a background check report do so as a result of erroneous or incomplete information, the housing provider should allow an applicant to provide an explanation. Any analysis of pending arrests must be undertaken using the guidelines provided in this document. If an offense would not be disqualifying as a conviction, it should not be disqualifying as a pending arrest.

- These guidelines must be followed by anyone who determines tenant eligibility, including, but not limited to, case managers, project managers, clerks, or independent contractors.

Policies Regarding Record Keeping and the Applicant’s Opportunity to Review the Record

- The housing provider must maintain records of all applicants and applications for a minimum of two years
- All Applicants must be given an opportunity to review and explain any conviction record to the housing provider before any decision regarding tenancy is made.
- If an application is denied, the Applicant must be provided with any documentation used to deny his or her application, an explanation of the denial of housing, and be given an opportunity to respond. There may be no less than fourteen business days between an Applicant receiving the notice and documentation used to deny the application and the Applicant’s opportunity to respond.
- The housing provider must create and maintain a written evaluation used in the decisionmaking process in accordance with these guidelines.
- The Records maintained shall include, but not be limited to:
 - o A copy of the original application;
 - o A copy of the conviction record and other material obtained in connection with evaluating the application;
 - o Written notification to the applicant that he/she has the right to contest and discuss the information and provide evidence of rehabilitation;
 - o The written evaluation detailing the analysis and decision of the housing provider, and;
 - o The Worksheet attached to these guidelines.

Factors That Must be Considered and Using the Worksheet

Introduction

The attached mandatory worksheet serves two important purposes. First, it creates a record of the decision making process the housing provider undertook when deciding whether to accept or reject an applicant. This permits the applicant to understand the basis for decision, and helps the housing provider to make consistent decisions. Second, the worksheet will help guide housing providers through the decision making process to ensure the consideration of the relevant factors.

Automatic Bars to Admission

There are two circumstances for which the Applicant’s criminal history will automatically make them ineligible for the housing accommodation. If the Applicant was convicted for producing methamphetamine in the home, or is required to be a lifetime registrant on the Sex Offender registry, Federal Department of Housing and Urban Development (“HUD”) rules make them ineligible for acceptance by the housing provider. If either of these circumstances are present, the application must be denied, and the analysis can stop here.

Question 1: Did the crime[s] for which the applicant was convicted involve physical violence to persons or property, or adversely affected the health, safety and welfare of other people? Not all criminal convictions may be considered. As per the State anti-discrimination policies cited at the outset, the only convictions that may be considered are convictions for offenses that

(a) involved physical violence to persons or property, or that (b) adversely affected the health, safety and welfare of other people. These categories of crimes are relevant because they relate to the behavior expected of a tenant, which is to live peaceably alongside other tenants, and to respect their property. If a person's record of conviction(s) does not fall into either category, then the analysis is over and a person's conviction should not be factored in considering his or her application for tenancy.

There is no list of what crimes fit into these categories. Interpretation of whether a crime fits is left to the reviewer's judgment, which the reviewer should articulate in the worksheet.

Question 2: How much time has passed since the applicant's date of the conviction and how much time has the applicant spent in the community after release from incarceration, if he or she was incarcerated as a result of the conviction(s)?

The reviewer shall not require the lapse of a fixed period of time between the date of the conviction or release from incarceration and consideration or granting of tenancy. Rather, the reviewer must engage in an individualized analysis of each applicant. The reviewer is trying to determine whether the applicant has had enough time in the community and has used that time productively to establish him or herself as a qualified tenant. Part of this analysis is a consideration of facts gathered in question 5, about what the person has done in the community since release from prison or since the time of conviction if the person was not incarcerated.

Question 3: What was the age of the applicant at the time of his or her conviction? A reviewer is required to take the age of the applicant at the time of the crime into account, and must do so with the understanding that individuals who exercise poor judgment as youths or young adults very often mature into law abiding productive adults. On the other hand, if a person was convicted as an older person this does not, in itself, present a barrier to tenancy.

Question 4: What is the seriousness of the applicant's offense? The reviewer must evaluate the seriousness of the offense and its relevance to the person's current ability to live peaceably alongside other tenants and respect their property. Again, this factor is not considered in isolation, but alongside other factors such as the passage of time and evidence of rehabilitation.

Question 5: Has the applicant shown evidence of rehabilitation and good conduct? There are a number of areas to explore, including:

A: Treatment Completion

The applicant may put forth evidence of successful completed treatment for drugs or alcohol, or for other conditions that may have contributed to his or her criminal behavior. This can be a positive factor in considering the application. On the other hand, it should not be assumed that a person has a drug or alcohol problem for which he or she needed to seek treatment, and therefore lack of completion of such treatment be considered a negative factor. Rather, lack of evidence of treatment completion should be considered neutrally. Since treatment information is subject to HIPAA regulations, this information should be volunteered by the applicant, not required, and maintained in a manner to ensure the privacy of the applicant.

B: Rehabilitative Programming

This factor considers whether the applicant has participated in and completed other types of rehabilitative programming, during or after incarceration. Examples of such programming include vocational, educational, work or therapy programs. Completion of such factors is a positive factor in considering the application.

C: Employment Status

This factor looks at whether the applicant has sought and maintained employment after his or her conviction or release from incarceration, which is a positive factor not only for this analysis but for assessing the applicant's financial eligibility for tenancy.

D: Rental History

This factor considers the applicant's history of tenancy, including whether he or she has been evicted or otherwise disciplined in their housing accommodations. A history of good tenancy is a positive factor.

E: Volunteer or Community Activities

This factor considers examples of community engagement or volunteer work undertaken by the applicant, which speak to how the applicant has been productively spending his or her time, particularly if the applicant has had difficulty finding employment.

F: Community Recommendations

If the applicant provides recommendations from community members, list the recommendations on the worksheet and attach them to the application and review packets. Recommendations can be provided by any member of the community, including, but not limited to: clergy, parole supervisors, residents and neighbors, educators and employers. These are a positive factor in assessing tenancy.

G: Other Relevant Factors

The above list of factors is not exhaustive. If there are any other rehabilitative efforts that may be relevant, list them here.

Worksheet for Applying New York State's Anti-Discrimination Policies When Assessing Applicants for State-Funded Housing Who Have Criminal Convictions

Reviewer's Name: _____

Applicant's Name: _____

Date: _____

This worksheet must be used to determine an applicant's eligibility for state-funded housing based on their criminal history. Please fill out the worksheet completely.

Note:

- Only crimes for which the applicant had been convicted and *recent* pending arrests may be considered.
- Only offenses that involved physical danger or violence to persons or property or that adversely affected the health, safety and welfare of other people may be considered.
- Convictions that have been excused by pardon, overturned on appeal or otherwise vacated may not be considered.

Automatic Bars to Admission

Was the applicant convicted of producing methamphetamine in their home?

- **YES:** STOP: Deny the applicant.
- **NO:** Continue to next question.

Is the applicant legally required to be a lifetime registrant on the state sex offender registry?

- **YES:** STOP. Deny the applicant.
- **NO:** Continue to next question.

Questions:

1. Did the crime[s] for which the applicant was convicted involve physical violence to persons or property, or adversely affected the health, safety and welfare of other people?

- **YES:** Use the space below to describe the offense, than continue to next question.
- **NO:** STOP: The applicant may not be rejected on the basis of their criminal history.

2. How much time has passed since the applicant's date of the conviction and how much time has the applicant spent in the community after release from incarceration, if he or she was incarcerated as a result of the conviction(s)?

3. What was the age of the applicant at the time of his or her conviction?

4. What is the seriousness of the applicant's offense?

5. Has the applicant shown evidence of rehabilitation and good conduct? Circle "Yes" for all of the following factors showing rehabilitation if they are applicable to the applicant and "No" if they are not. In either case, please provide an explanation for your choice.

A. Has the applicant participated in drug or alcohol rehab? (If rehab or treatment was not necessary, write N.A.).

YES	NO

B. Has the applicant participated in and completed other types of rehabilitative programming? (If so, please indicate what type of programming)

YES	NO

C. Has the applicant sought and maintained employment after his or her conviction or release from incarceration?

YES	NO

D. Does the applicant have a history of good tenancy, and has he or she not been evicted or otherwise disciplined in their housing accommodations?

YES	NO

