

INVESTIGATIVE REPORT

(Final Finding and Closure)

*****PUBLIC VERSION*****

Information identifying the complainant has been removed in this public report.

Alaska Ombudsman Complaint A097-1337

December 18, 1998

SUMMARY OF THE COMPLAINT

On August 10, 1998, the Office of the Ombudsman received a letter from a mother on behalf of her son, Gelbrade Felson, complaining about the University of Alaska Anchorage (UAA). On August 11 ombudsman intake officer Darlene Appel contacted the mother to let her know we needed Mr. Felson's permission to discuss this complaint with UAA. On August 14 Mr. Felson called our Anchorage office to say we could contact UAA and use his name to inquire into the matter.

Mr. Felson said that UAA's Housing, Dining, and Conference Services Office had unfairly charged a cancellation fee of \$250 in addition to the \$100 security deposit he forfeited when he notified the Housing office on January 10, 1998, that he would not be taking a dorm room he had reserved for Spring semester 1998.

Mr. Felson's mother wrote that this university policy was unfair because it took advantage of young people from rural Alaska who have little experience with legal contracts. She stated this policy was just "a money maker for the University." In addition, she wrote,

The Ombudsman accepted this complaint for investigation and issued verbal notice of investigation of the following allegation to PHD Director Wes Weir on August 27, 1997:

- Unreasonable: AHFC Public Housing Division staff did not

warn complainant that a Section 8 recipient had a long and documented history of causing serious damage to rental units when the agency allowed the person to rent from complainant. The agency now will not compensate the complainant for thousands of dollars in damage and is allowing the tenant to rent from other landlords.

INVESTIGATION

Assistant Ombudsman Linda Lord-Jenkins investigated this complaint. She interviewed the complainant, PHD Director Wes Weir, PHD Legal Liaison Martha Gore and Housing Management Specialist Marge Arnold. She also reviewed the tenant's PHD file and the landlord's small claims court file.

Review of the tenant's files revealed that she became eligible for a PHD rental assistance voucher in 1989 when she was married. The tenant couple rented from a couple (referred to here as Landlord L) starting on February 1, 1991. They renewed the lease on February 1, 1992, 1993, 1994 and 1996 without noticeable problems until they divorced in 1996. As part of the divorce settlement, the tenant received custody of their children and the right to use the couple's rental assistance voucher. She moved from Landlord L's apartment and into the complainant landlord's trailer home in February 1996.

PHD files indicated that on February 17, 1996, the tenant and the landlord signed a request for Section 8 Tenant-Based Assistance lease approval for the tenant to rent the landlord's trailer. The AHFC request form was marked as approved by "JB: on February 28, 1996. PHD files also contain a letter from the landlord to the tenant titled Termination of Tenancy. This letter stated that she allowed the tenant to move into her rental unit on February 2, 1996 but after moving in the tenant "then informed me she would not begin to pay any thing until March, when she got her (PHD subsidy) money." . . . "Tenant had already moved into the rental, then informed me that she had a dog and two cats. Tenant wanted to know when I was putting up a fence around the place. I informed tenant I was not."

The one-page Tenant Based Assistance Request Form that the landlord signed stated the following in boldface text immediately above her signature and under Section 11, Housing Authority Determinations:

- a. The HA (housing authority) has not screened the family's behavior or suitability for tenancy. Such screening is the owner's own responsibility.

The landlord's rental agreement with the tenant noted that the tenant had

three pets: two dogs and a cat. PHD rules and regulations do not require landlords to accept any pets if they do not choose to do so. The landlord sent a letter of protest to Mr. Weir after she discovered the damage to the rental property. The letter stated the tenant was living in the rental before the landlord was aware that she had pets. However, the landlord did not direct that the pets be removed. Her protest letter also stated the tenant had moved into her rental unit before she was deemed eligible for the Section 8 program subsidy.

According to PHD records, the tenant vacated Landlord L's rental unit as of March 1, 1996. AHFC records indicate that PHD staff did a "move out inspection" of Landlord L's rental property that the tenant had vacated on March 12. The inspection form, signed by PHD Inspector Rosemary Hansmeyer stated in the comment section "I wouldn't recommend them." The inspection noted that the unit was uniformly "dirty" and "filthy" throughout the unit. It also noted that animal feces also were found throughout the rental unit. The report stated most of the doors were destroyed or punctured.

Landlord L filed a landlord statement of damage claim on May 3, 1996. He claimed the tenant and her family had damaged his property and he sought compensation of \$3,424. He claimed he spent a total of \$2254 in material and labor to replace three doors, linoleum, carpet, keys and other miscellaneous damage and associated costs. He also claimed that he spent 117 hours to clean the unit at a total labor cost of \$1170.

Under HUD and PHD rules in effect when the tenant joined the Section 8 program, PHD paid Landlord L \$751 in damages, the most allowed under a formula for repaying damage to Section 8 subsidized housing. In this case, that equaled \$751. The policy of paying for Section 8 rental damages was eliminated when federal budgets grew tight in the early 1990s, however, and neither HUD nor PHD now pay for tenant damage costs. The payment to Landlord L's was approved under a "grandfather" clause of the contract but under HUD rules, the tenant was expected to repay the housing authority for the damages. The tenant did not reimburse PHD for the damage and was not asked to until the Ombudsman contact caused an agency review of her file.

Mr. Weir said PHD did not seek repayment from the tenant in 1996, apparently because the voucher originally was in the tenant's spouse's name and he no longer had a housing assistance subsidy. PHD did not seek reimbursement from the tenant until the Ombudsman inquired about the issue and he reviewed the file. He said that the tenant was responsible for repaying PHD because she was a signator on the lease and the voucher. Additionally, she was awarded the voucher by their dissolution. He said PHD was determined to seek payment from the

tenant or she would be removed from the program. However, the tenant already had signed the contract with the landlord by the time that PHD was notified about the damage to Landlord L's property.

Mr. Weir told Ombudsman investigators that under the Section 8 program, the Public Housing Division's relation to landlords and tenants is limited to subsidizing the tenant's rent. He said the contractual agreement is between landlord and tenant and is governed by Alaska Statute 24.03, the Uniform Residential Landlord-Tenant Act. He said PHD only guarantees that the program participant meets income requirements for participation in the program.

Public Housing Division policy, procedures and literature

Mr. Weir said that Federal Housing and Urban Development and PHD regulations and policies make the landlord responsible for researching their tenant-applicant's history. AHFC provides written literature to landlords encouraging them to check the tenants' references. He said if landlords ask AHFC for a list of landlords that Section 8 participants have had, PHD will provide them. However, that information is only provided if the prospective landlord requests it, he said.

Literature made available to PHD landlords in 1996 discussed, among other things, the landlord and tenants' responsibilities. The policy in effect at the time the landlord and tenant's lease was signed was implemented November 1, 1995. Section III A Owner's Responsibility for Screening Tenants, Owner screening, states:

1. Listing a family on AHFC's waiting list, or selecting a family for participation in the program, is not a representation by AHFC to the owner about the family's expected behavior, or the family's suitability for tenancy. At or before AHFC's approval to lease a unit, AHFC must inform the owner that AHFC has not screened the family's behavior or suitability for tenancy and that such screening is the owner's own responsibility.
2. Owners are permitted and encouraged to screen families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as: Payment of rent and utility bills; Caring for a unit and premises; Respecting the rights of others to the peaceful enjoyment of their housing; Drug-related criminal activity or other criminal activity that is a threat to the life, safety or property of others; and Compliance with others essential conditions of tenancy.

Section IV. Information about Tenant, states that AHFC must give the owner the renting family's current address as shown in AHFC's records and the name and the address of the landlord at the family's current and prior address (if known by AHFC).

Another packet of PHD literature lists Owner (landlord) Responsibilities including "performing all management and rental functions for the assisted unit, including selecting a certificate-holder or voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit; and . . . Collecting from the family any charges for unit damaged by the family."

Mr. Weir said that in the past, the PHD was able to pay a portion of damage done to rental units by Division clients but that practice became prohibitively expensive because of federal budget cuts. He also stated that current procedure calls for HUD to evict tenants when they inflict damage of more than \$400 to a rental unit. He also said that in previous years the housing authority conducted separate landlord and tenant orientation sessions for new participants in the program. PHD still conducts tenant orientations but discontinued the landlord sessions because of lack of participation.

ANALYSIS AND FINDING OF RECORD

The landlord contends that PHD should have told her that the tenant had a history of damaging rental property when she began the lease process. Unfortunately, the record indicates that PHD was unaware of the tenant's problems because, by the landlord's admission, the tenant moved into the landlord's property a full month before the damage to Landlord L's rental property was documented. The two signed a lease agreement two weeks after the tenant occupied the unit which was still 11 days prior to Landlord L's move out inspection with PHD.

The record indicates that AHFC did not know of the tenant's "history of destruction" because at that point, she had no known history of destruction. For six years prior, her lease with Landlord L was renewed routinely on an annual basis. Further, AHFC's policy and the lease agreement that the landlord signed clearly stated, in boldface print, that the landlord was responsible for screening their tenants. Admittedly the landlord was new to the landlord business but AHFC cannot be held responsible for her failure to exercise good business sense and check her prospective tenants' rental histories. She had the right as a landlord to ask for references and could have researched her past.

Therefore, based on the facts uncovered in this investigation, the

Ombudsman found this complaint to be unsupported. Because this complaint is unsupported, no recommendations are warranted.
