



United States Department of Agriculture
Rural Development

SEP 1 2005

TO: State Directors (AL, AR, FL, GA, LA, MS, MO, TN, & TX)
Rural Development

FROM: Russell T. Davis *Russell T. Davis*
Administrator
Rural Housing Service

SUBJECT: MFH Guidance Relating to Hurricane Katrina

Based on the serious emergency conditions resulting from the aftermath of Hurricane Katrina, we offer the following responses to the issues raised and authorize you to act in accordance with this emergency guidance.

- A. Assistance for displaced tenants from Rural Development (RD) Section 515, 514/516 financed properties, Section 502 (direct and guaranteed) and Section 504 (loan and grant) borrowers.

For existing MFH tenants or Section 502/504 borrowers displaced by the hurricane, the Agency has several authorities available to minimize the impact of the devastation.

1. The existing MFH tenants and/or Section 502/504 borrowers made homeless by the hurricane may apply for occupancy at any Rural Development (RD) financed property as a "displaced tenant." In accordance with 7 CFR 3560.154 (g) (2)(ii), they will be placed, first come-first served on the waiting list. They would then be offered any vacant unit or the next available unit if no vacancies exist.
2. Some existing tenants may have been receiving Rental Assistance (RA) in units made uninhabitable by the hurricane. While, the Agency cannot provide RA to a tenant unless they occupy an eligible RD financed property, the Agency can allow the transfer of the tenant's RA unit to an eligible RD property where the tenant could then continue to receive RA. Any such arrangement needs to be agreed to by all parties and be designed to return the RA, and the tenant if they chose, back to their original apartment unit.

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3. The health and safety of the tenants are a critical concern to the Agency. If the unit is habitable, all existing contractual and regulatory obligations between the owner and the tenant should be met. If the unit is declared uninhabitable, we would expect the contractual and regulatory obligations to be suspended in good faith while repairs are made and the unit is ready for occupancy.

In accordance with this emergency directive, you are authorized to arrange temporary transfers of RA from properties made uninhabitable by Hurricane Katrina to properties in surrounding areas that have vacancies in habitable units, as follows:

- a. The owners must enter into an agreement whereby RA units, in an amount equal to or less than the number of vacant units in the receiving property, are transferred for a period of time until the units in the damaged property can be made habitable. When the units are habitable, the RA units will be transferred back to the original property. RA units may be transferred as a group or one at a time.
 - b. First priority for the use of transferred units are RA tenants moving from the damaged property. The tenants would be accommodated first come-first served from the waiting list in accordance with 7 CFR 3560.154 (g)(2)(ii). These displaced tenants would receive priority over any other applicant or existing tenant.
 - c. Displaced tenants receiving the transferred RA must sign an attachment to their lease indicating that they understand that the RA unit will be returned to its original property when the damaged apartment unit has been made habitable. At that time, the displaced tenant could also return and continue to receive RA. This agreement would be subject to the tenant remaining eligible and the tenant wishing to return to their original unit. However, if the tenant chooses to stay, they could not be assured RA and the borrower would charge an appropriate rent based on any subsidy available to that property.
- B. Guidance to owners who may accept displaced tenants from Rural Development (RD) financed properties, Section 502 and 504 borrowers or other individuals displaced due to Hurricane Katrina.

The following waivers for housing displaced individuals will expire 90 days from the date of this memo:

1. Letter of Priority Entitlement (LOPE) will be issued by the Agency to displaced individuals in accordance with 7 CFR 3560.154 (g)(2) in the following priority:
 - a. The applicant was displaced from Agency-financed housing
 - b. The applicant was displaced in a Federally declared disaster area

To receive a LOPE letter, the individual must present identification and evidence of residing in the affected federally declared disaster area. Attachment A is a copy of the LOPE letter to be used.

2. Applicants may provide the owners with documentation of being registered with FEMA in lieu of a LOPE letter. Displaced individuals can register with FEMA by calling 1-800-621-3362 and they will be issued a claim number.
3. The Agency will waive 7 CFR 3560.152 (e)(2)(i) and allow for self verification of income for the first 90 days of occupancy. Also, imputed income for assets due to homeownership affected by the hurricane will be waived.
4. Zero income applicants may be allowed to reside in apartment units; however, RA must be available to the applicant.
5. The Agency will waive 7 CFR 3560.204 security deposit requirements if requested by the owner of the property.
6. The Agency will allow owners of elderly designated properties to rent to age ineligible applicants.
7. The Agency will waive 7 CFR 3560.156 (b)(2) requiring leases to be for a one year period and should be issued on a month to month basis.
8. The Agency will waive 7 CFR 3560.576 (b)(2) and (e) to allow Off Farm Labor Housing owners to accept non-farm applicants and allow for income be received from other sources than from farm labor employment.

C. Assistance for properties destroyed or damaged.

In properties where all or a substantial number of the units become uninhabitable, the Agency has several authorities available to minimize the financial impact of the devastation.

1. 7 CFR 3560.105 requires MFH borrowers to maintain hazard insurance coverage. In most cases this includes payments to cover disrupted rents.
2. If borrowers are unable to transmit tenant certification information due to communication problems relating to the hurricane, the Agency will waive overage charges due to late submission. The borrower should contact their Servicing Office to advise them of any problems with transmitting information to the Agency.
3. If borrowers are temporarily unable to make loan payments, the Agency may waive late fees to reduce any extra financial burden.
4. The Agency may enter into servicing workout plans to assist properties whose financial viability has been disrupted. Workout plans as described in 7 CFR 3560.453 can include a variety of actions to lower operating costs. These include reducing contributions to the reserve account or lowering loan payments. Reamortization of the account can be used to bring the account current once the repair is completed. Servicing workout plans would also bring into consideration any borrower receipt of insurance benefits.

5. Provided borrowers are making a good faith effort to repair any apartment units made uninhabitable by the hurricane, you may continue to allow interest credit to remain in effect. The Agency should review the situation after 180 days to assess progress in rehabilitating damaged units.

If you have any questions, please contact Stephanie White at 202-720-1615 or Janet Stouder at 202-720-9728.

Attachment

RURAL DEVELOPMENT
[LOCATION]

DATE: [insert today's date]

SUBJECT: LETTER OF PRIORITY ENTITLEMENT (LOPE) FOR:
[insert Name of Tenant/Family]
[insert Tenant/Family's Address]

Dear Tenant:

As a result of Hurricane Katrina you are entitled to priority for placement on waiting lists of any Section 515 rural rental housing property or Section 514/516 labor housing property that has units for which you are eligible to occupy. There is no geographic limit on this entitlement. Please present this Letter of Priority Entitlement to your new landlord.

Dear Rural Development Property Owners:

The tenant/family named above has been displaced due to Hurricane Katrina. This letter must be used within 120 days from the above date to give this tenant/family priority placement on your waiting list(s). The only other tenants who may receive priority over this tenant/family are those who have already entered your waiting list with a letter similar to this one or handicapped tenants who need the particular design features of a vacant apartment. The above named tenant/family is to remain in this position on your waiting list until they receive an apartment or the list is purged in accordance with a Rural Development-approved policy. After 120 days, they may continue to be placed on waiting lists for apartments for which they are eligible, but without priority.

NOTE: This priority places the above-named tenant/family at the top of all waiting lists in your properties, regardless of other priorities (such as income) and eligibility's for apartment size so long as your property has at least one apartment, presently occupied or not, for which this tenant/family is eligible. If this tenant/family occupies an apartment for which size or type they are not eligible for, the lease must read that this tenant/family will move to the first appropriate apartment available.

If you have any questions, please contact the Servicing Office at the address below:

[RD Servicing Official signature and title]