

Monitoring Rental Housing with SHIP



Sponsored by the Florida Housing Finance Corporation's Catalyst Program

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we make housing affordable™

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Request a Site Visit to design Rental Housing assistance or more



- Call (800) 677-4548
- Up to 6 hours of training in your office
- Discuss new and existing strategies
- Review of Files, Staffing, Procedures

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Overview of Topics

- Ways SHIP Assists Rental Housing
- Rules for Using SHIP for Rental
- Monitoring SHIP Rental Housing
- Topics related to Fair Housing
- Download HANDOUTS

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Affordable Housing Contacts

Florida Housing Coalition

- www.flhousing.org
- State-wide nonprofit membership organization
- Training, technical assistance on affordable housing

Florida Housing Finance Corporation

- www.floridahousing.org
- Administers SHIP, State HOME, Low Income Housing Tax Credits, Multifamily Revenue Bonds, Single Family Bond, Predevelopment Loan Program,

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Monitor for Rental Development, NOT Rental Assistance

Rental Development

- New Construction or Rehabilitation

Rental Assistance for 1 Household

- Rent Deposit
- Eviction Prevention
- Rent Subsidies
- Disaster



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Amount of SHIP Available for Rental Development

- 100 % Allocation
- 65% Homeownership Set aside
- 10% Admin

25% of Allocation Available for Rental New Construction or Rehabilitation

PLUS all Program Income



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Less is Available for Rental Assistance

- 100 % Allocation
- 75% Construction/ Rehab Set aside
- 10% Admin

15% of Allocation Available for Rental Assistance

PLUS all Program Income

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A Rental Webinar to Review

SHIP Rent Limits Policy
 August 16 2018 recording at
<https://vimeo.com/285493623>

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Elements of Monitoring



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SHIP requires Rental Monitoring

Rental units constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund must be monitored at least annually for 15 years or the term of assistance, whichever is longer, for compliance with tenant income and affordability requirements

—SHIP Rule: 67-37.007(11), F.A.C.

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SHIP Monitoring Rules

- Tenant income of projects that receive more than \$10,000 must be monitored annually.
 - Used to be \$3,000
- May rely on monitoring report of another entity even if periodic.

“...to the extent another governmental entity or corporation program provides periodic monitoring and determination, a municipality, county, or local housing financing authority may rely on such monitoring and determination of tenant eligibility.”
- Does not require utility allowances

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Income Compliance on Small Rental Properties

Technical Bulletin Handout

Highlights:

- Monitored for at least 15 years is required even if property is owned by a sponsor or sub-recipient (non-profit partner)
- In this case, a contract must be executed
- Do not delegate the responsibility of performing inspections to the sponsor/sub-recipient

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Prepare for Monitoring: Review SHIP Agreement with Owner of Rental

- How many rental units?
- Tenants at what Income Level?
- Affordability period?
15 Years? 50 Years?
- Other requirements? Special Needs, for example?



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SHIP Agreement with Developer

- Amount of the award
- Timeframe for project completion
- Fixed or floating units?
- Required SHIP set aside (ELI, VLI, LI, MI)
- Security documents:
 - LURA- Land Use Restriction Agreement
 - Mortgage and Note

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Other Helpful Documents

- | Request for Proposal | Scope of Services |
|--------------------------------------|-----------------------------------------------------------|
| • Specific in nature | • From developer's proposal responding to the RFP |
| • Measurable | |
| • Follows LHAP criteria | • Includes what will be delivered, when, how, and by whom |
| • Evolves into the Scope of Services | |

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Components of a Good Rental Monitoring Plan

Who?

- 3rd party or internal staff

When?

- Annually unless FHFC monitors (Get a copy of their report and review it!)

What?

- Income Eligibility
- Rent Affordability
- Property condition
- Property performance



Rental Monitoring Plan CONTINUED

How many units dedicated to who?

- Refer to agreement

Project Forms

Process

- Notification
- Confirmation
- On site vs Desk Review
- Exit conference
- Monitoring report
- Client response
- Corrective Action /follow up plan

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Some Tips

- Keep Sponsor Developers updated on new income limits, rents, etc. that affect compliance
- Offer recommendations for corrective actions, solutions, improvements or technical assistance
- Blended Funded Project: Terms of the most restrictive funding source applies

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More Training Available

“Working with Blended Financing/Subsidy Layering” WEBINAR

October 23, 2018 recording:

<https://vimeo.com/296726276>

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Initial Monitoring Questions

Does the file for each unit contain income documentation, eligibility certification, and compliant lease?



Does the SHIP contract specify how many units are SHIP assisted? *If not, all units must be monitored.*

Is adequate homeowner and windstorm insurance in place with County/City named in mortgagee clause?

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Monitoring Income Eligibility

- Is the project owner using the correct income limits to determine eligibility of tenants?
- Are tenants income-eligible at the time of initial occupancy?
- Is the project owner recertifying tenant income annually?
- As tenants vacate, are they replaced by tenants of the same income category?

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What if Tenant Income Increases

Low Income Definition in SHIP Statute:
 “While occupying the rental unit, a low-income household’s annual income may increase to an amount not to exceed 140 percent of 80 percent of the area’s median income adjusted for family size.”

Example

\$55,000 = 80% AMI

\$77,000 = 140% of 80% AMI (55,000 x 1.4)

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Income Eligibility Determination Webinar

“Income Certification for SHIP Applicants”
 Webinar

Recording from May 2017:
<https://vimeo.com/216693980>

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More Questions about Tenants

Does the SHIP Agreement with Developer require Special Needs Tenants?

- Special Needs Set-Aside Requirement applies to SHIP starting with 13/14
- Spend 20 percent of **allocation** on households that include one or more household members with special needs, defined in S.420.0004

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Types of Special Needs Tenants

Developmental Disabilities (DD)

Receives SSD/SSI or other Disability Benefits

Youth Aging Out of Foster Care

Survivor of Domestic Violence

Person with Disabling Condition requiring independent living services

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Special Needs Training

“Special Needs Assistance with SHIP Funds”

Recording from November 2017:
<https://vimeo.com/242648170>

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Monitoring Rent Affordability

In determining the maximum allowable rents, **30 percent of the applicable income category** divided by 12 months shall be used based on the number of bedrooms...

A **rental limit chart** based on the above calculation adjusted for bedroom size will be provided to the local governments by the Corporation annually.

—SHIP Rule: 67-37.007(11), F.A.C.

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Detail about Rental Development

For Tax Credit Properties,
higher rents may apply

“If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may **resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code** of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (g) of this subsection.”

Section 420.9075 (5)(n)3 of SHIP Statute

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Monitoring Physical Condition

- **BEST PRACTICE**, but not actually addressed in SHIP monitoring by the State
- Include standards in your agreement

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Physical Condition Standards

- Site: fencing, grounds, walkways, and more
- Building exterior
- Systems: water heater, electrical system, elevators, emergency power, fire protection, HVAC, sanitary system
- Common Areas

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MORE about Physical Condition



- Dwelling Units: bathroom, kitchen, bedrooms and more
- Free of health/safety hazards
- Compliance with local codes: “These standards do not supersede codes”

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Monitoring Property Performance

- Are any units vacant for more than 30 days?
- For units vacant over 31 days, does Management should have a plan for occupancy?
- Address health, safety, code issues as priorities with appropriate follow up dates

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Common Findings

- Rental units not being monitored annually
- Noncompliant with initial rent limits
- Noncompliance with income limits
- Noncompliance with set asides
- LHAP, Agreement, LURA, mortgage terms conflict
- Income certification completed incorrectly
 - Asset calculation, income calculation & documentation
 - Not signed, white out, no date stamp/inconstant dates

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Fair Housing

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Fighting for Fair Housing

- Not Only HUD's Responsibility
- Local Communities
- Housing Advocates
- Housing Managers and Organizations
- Landlords
- Real Estate Agents
- Intake staff
- Everyone's responsibility to promote Fair Housing

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Protected Classes under HUD's Jurisdiction

1. Race - African American; Caucasian; Hispanic/Latino/Latina; Asian, etc.
2. Color - Black, White (self-identification)
3. National Origin
4. Religion
5. Sex - Gender (male or female) does not include sexual orientation
6. Disability
7. Familial Status

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Not Protected Classes

1. Criminal History
2. Military Status
3. Credit History
4. Marital Status
5. Income/Economic Status
6. Personal Animosity

Discrimination Hotline

1-800-440-8091 x-2493

Spanish x-2047

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What Housing Is Covered?

The Fair Housing Act covers most housing.

In some circumstances, it exempts:

- Owner-occupied buildings with no more than four units,
- Single-family housing sold or rented without the use of a broker, and
- Housing operated by religious organizations and private clubs that limit occupancy to members

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What Is Prohibited?

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental
- Provide different housing services or facilities
- Falsely deny that housing is available
- For profit, persuade owners to sell or rent (blockbusting)
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to sale or rental

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Disability Rights: Landlord may not:

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense,
- Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.
- *Example:* A building with a no pets policy must allow a visually impaired tenant to keep a guide dog.

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Using Criminal Records for Housing Decisions

- April 4, 2016 – HUD Guidance on Application of Fair Housing Act Standards on the Use of Criminal Records by Housing Providers
- Addresses how discrimination can be shown in Fair Housing Act cases when an adverse housing action is based on a person's criminal history
- https://portal.hud.gov/hudportal/documents/huddoc?id=hud_ogcguidappfhastandcr.pdf

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HUD Guidance on Criminal Records

- Does not make those with a criminal record a new "protected class"
- Does not prohibit housing providers, landlords, etc., from considering criminal records when making housing decisions

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Criminal Records

- Does prohibit housing providers from using criminal records:
 - As a pretext for intentional discrimination
 - In a way that results in an unjustified discriminatory effect on a protected class, with limited exception
- Does apply to virtually ALL housing including private market rentals

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Unjustifiable Policies RE: Criminal Records

- Housing decisions based on arrest records only
- Blanket bans on any/all convictions (e.g., a blanket policy that individuals with felonies cannot be tenants)
- HANDOUT offers guidance on new policies

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Questions?



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Technical Assistance is Available

- Call us at 800 677 4548
- Request a site visit or training
- Complete training schedule
 - www.flhousing.org



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