

CHARLES CITY HOUSING & REDEVELOPMENT AUTHORITY

AGENDA  
**SPECIAL MEETING**

August 24, 2012, 7:30 a.m.  
at  
501 Cedar Terrace South, Charles City, IA 50616

- I. Call Meeting to Order
- II. Old Business
  - 1. Approve Resolution No. 09-12 Adopting a Definition of "Legal Domicile" and Verification Requirements ..... 1-3
- III. Move to Adjourn

**\*\*\*\*\*Note time difference, meeting is at 7:30 a.m.\*\*\*\*\***

Next regular meeting scheduled for Thursday, September 20, 2012 at 7:00 a.m.

**REQUESTED ACTION:** Approve Resolution 09-12 to adopt the Iowa Supreme Court's definition of "Legal Domicile" and set criteria to determine domicile.

**Comments:** We have been working with Ralph Smith to develop a definition of "Legal Domicile". The HUD regulations found at 24CFR 986.353 (c)(1) characterize an applicant as a "nonresident applicant" if neither the household head nor spouse of an assisted family already had a "domicile" (legal residence) in the jurisdiction of the initial PHA at the time when the family first submitted an application for participation in the program to the initial PHA. This applies to portability or the ability to take the Section 8 voucher and lease up in a different jurisdiction. When an applicant can verify that they have a legal domicile at the time of application, they can port their assistance immediately upon issuance of a voucher. If not, they must lease up in Charles City for 12 months prior to exercising portability.

While we have determined what criteria must be met for an applicant to receive local preference, such as a verifiable local address, Iowa ID or Driver's License, Vehicles being registered in the State of Iowa, any DHS benefits received must be from Iowa, and all school aged children currently registered and attending school in the Charles City School District, we don't currently have a definition of what is considered a "domicile".

The distinction between the two is important because the applicants only have to verify that they are living in Charles City to receive local preference, which affects their placement on the waiting list. The right for applicants to port assistance immediately upon being issued a voucher is governed by that jurisdiction's definition of "domicile". According to the Iowa Supreme Court, to have legal domicile a person has to verify that they have abandoned a former residence, actually moved and physically reside in the state, and have a bona fide intention to change domicile and reside in Iowa permanently or indefinitely. In addition, the intention to change one's domicile must be present and fixed and not dependent upon the happening of some future or contingent event. The regulations allow us to define "domicile" and set the requirements to be able to exercise portability directly from the waiting list.

We currently have applicants who move here and are able to meet our local preference requirements. They are leasing a unit simply for a valid Charles City address so they can provide a current lease with the intent to port their assistance upon receiving their vouchers. This is not consistent with Iowa's definition of "domicile" because they don't intend to be a resident within our jurisdiction permanently. Their claim to be an Iowa Resident is contingent upon them receiving a voucher and porting to another jurisdiction. Due to this, Ralph has assisted us with the following criteria to show that an applicant has a legal domicile at the time of application:

"The residency of an applicant shall be determined by utilizing the criteria set forth in 4-III.C of the Administrative Plan. The applicant's intention to remain a resident of a jurisdiction and establish domicile shall be determined through consideration of the following criteria: (1) length of residency; (2)

length of employment in the jurisdiction; (3) statement of the applicant's intentions. There shall be a presumption of domicile upon proof of residency in this jurisdiction if the applicant has resided within the jurisdiction for a period of six months unless the applicant states that it is not the intention of the applicant to remain within the jurisdiction; and there shall be a conclusive establishment of domicile upon proof of residency in the jurisdiction for a period of one year or more."

## RESOLUTION NO. 09-12

### ADOPTION OF DEFINITION OF "LEGAL DOMICILE" AND CRITERIA FOR DETERMINATION OF "LEGAL DOMICILE"

#### Charles City Housing and Redevelopment Authority (CCHRA)

WHEREAS, the Charles City Housing and Redevelopment Authority provides housing for low income families through various programs which are funded primarily through agreements with the United States Department of Housing and Urban Development; and

WHEREAS, the CCHRA is directed by HUD to maintain the Section 8 Housing Choice Voucher program regulations in accordance with 24 CFR 982 as stated in their Administrative Plan in which all changes must be adopted by board resolution; and

WHEREAS, the proposed changes to be incorporated into the Administration Plan include the adoption of the definition of "legal domicile" as defined by the Iowa Supreme Court in *Julson v. Julson*, 255 Iowa 301, 122N.W.2d 329, 331 (1063) and criteria to be used to determine "legal domicile". These changes shall read "An individual is "domiciled" in the state of Iowa if the individual intends to permanently or indefinitely reside in Iowa and intends to return to Iowa whenever the individual may be absent from this the state. Individuals are domiciled in Iowa if the following three elements exist: (1) a definite abandonment of a former domicile; (2) actual removal to, and physical presence in the state; and (3) a bona fide intention to change domicile and to remain in this state permanently or indefinitely. The intention to change one's domicile must be present and fixed and not dependent upon the happening of some future or contingent event." The criteria to be used for the purposes of determining domicile upon application prior to admission to the Section 8 program shall be: "The residency of an applicant shall be determined by utilizing the criteria set forth in 4-III.C of the Administrative Plan. The applicant's intention to remain a resident of a jurisdiction and establish domicile shall be determined through consideration of the following criteria: (1) length of residency; (2) length of employment in the jurisdiction; (3) statement of the applicant's intentions. There shall be a presumption of domicile upon proof of residency in this jurisdiction if the applicant has resided within the jurisdiction for a period of six months unless the applicant states that it is not the intention of the applicant to remain within the jurisdiction; and there shall be a conclusive establishment of domicile upon proof of residency in the jurisdiction for a period of one year or more."

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Charles City Housing and Redevelopment Authority that the Authority has reviewed the preceding policy changes and authorize their approval for the implementation effective August 24, 2012.

PASSED AND APPROVED BY THE CHARLES CITY HOUSING AND REDEVELOPMENT AUTHORITY ON THIS 24TH DAY OF AUGUST 2012.

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Margaret Calvert, Chairperson

ATTEST:

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Heidi Nielsen, Director