

TITLE 17

DEPARTMENT OF SOCIAL SERVICES AND HOUSING

SUBTITLE 5

HAWAII HOUSING AUTHORITY

CHAPTER 526

STATE ELDERLY HOUSING PROGRAM

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HISTORICAL NOTE: Chapter 526 of Title 17, Administrative Rules is substantially based upon Rule 23 of the Hawaii Housing Authority, Department of Social Services and Housing. [Eff: 5/17/78; R OCT 05 1981]

## SUBCHAPTER 1

### GENERAL PROVISIONS

§17-526-1 Purpose. These rules are adopted under chapter 91, HRS and implements part III of chapter 359, HRS authorizing the Hawaii housing authority to do any and all things necessary or desirable for the development of housing projects for qualified elderly families as defined herein. [Eff: OCT 05 1981] (Auth: HRS §359-54) (Imp: HRS §359-54)

§17-526-2 Definitions. As used in this chapter:

"Administrator" means the executive director employed by the authority or his designated representative.

"Assets" means total cash, securities, real and personal property less any outstanding liabilities secured by assets.

"Bona fide resident" means a citizen of the United States or an alien who has established residency and who now resides in the State. (Permanent resident aliens must submit a copy of their alien registration receipt form I-151.) If there is a question regarding the residence status an applicant, it is the applicant's responsibility to provide documentary evidence of residency. Such documentary evidence may be in the form of, but not limited to, State income tax returns and voter registration receipt.

"Contract rent" means the rent charged a tenant for the use of the dwelling accommodation and equipment (such as ranges and refrigerators but not including furniture), services, and reasonable amounts of utilities determined in accordance with the authority's schedule of allowances for utility consumption or other miscellaneous charges.

"Designated geographic area" means that specific area determined by the director for an elderly housing study. It may encompass the whole State, a county, or section of a county.

"Displaced family" means a person or a family displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal or state disaster relief laws. A "displaced family" is one that is without housing, about to be without housing within three years prior to making application to the authority for admission to any housing program, and their displacement resulted from some public or governmental action such as:

- (1) Displacement by any low-rent housing project;
- (2) Displacement by any public slum clearance redevelopment or urban renewal project;
- (3) Displacement through action of a public body or court, either through the enforcement of housing standards or through the demolition, closing or improvement of dwelling units;
- (4) Displacement through any other governmental action for public improvement purposes; and
- (5) Displacement through the exercise of the powers of eminent domain by a public utility.

"Elderly family" means a family whose head or spouse or whose sole member is at least sixty two years of age, or handicapped as defined in this section, and may include two or more elderly, disabled or handicapped persons living with another person who is determined to be essential to his or her care and well-being.

"Gross income" means "total family income" as defined in §17-525-2.

"Handicapped person" means a person having an impairment which:

- (1) Is expected to be of long-continued and indefinite duration;
- (2) Substantially impedes his ability to live independently; and
- (3) Is of such a nature that such disability could be improved by more suitable housing conditions.

"Head of the household" means the family member who is held responsible and accountable for the family.

"Rent" means contract rent plus the authority's estimate of the cost to the tenant of reasonable quantities of utilities determined in accordance with the authority's schedule of allowances for such utilities, where such utilities are purchased by the tenant and not included in the contract rent.

"Rental" means a dwelling unit developed in accordance with chapter 359, HRS, which is owned and

operated by the authority and rented to qualified applicants at a rent established by the authority.

"Security deposit" means a deposit required of each tenant prior to admission for covering loss of removable property (reasonable wear and tear expected) and nonpayment of rent.

"Substantial gainful activity" means service performed by an individual for monetary remuneration or other remuneration of value in return.

"Utilities" means water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection and sewerage services. Telephone service is not included as a utility. [Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

§17-526-3 Public information. The administrator may disseminate information and render assistance to the public in order that the provisions of the chapter 359, HRS, part III, may be understood and effectively implemented. The administrator may use all available news media or cause to be published these rules or an explanation of them for distribution. The administrator may employ persons who are recognized in the various communities as leaders to help explain the operation of part III of chapter 359, HRS, and these rules to their communities and he may invite the participation of any affected community, including any committee established by such community, to help the authority in explaining the operation of these rules. [Eff: OCT 05 1981 ] (Auth: HRS 359-54) (Imp: HRS §359-54)

## SUBCHAPTER 2

### HOUSING PROJECT AND DEVELOPMENT AND CONSTRUCTION PROGRAM

§17-526-11 Purpose. The purpose of this program is to allow the authority, on behalf of the State, or in cooperation with qualified developers, contractors, or others, to develop real property and construct housing projects for elderly thereon. The provisions of Chapter 525, Title 17, Administrative Rules, may be utilized for the development and construction of housing project herein. [Eff: OCT 05 1981 ] (Auth: HRS §§359-51, 359-53, 359-54) (Imp: HRS §§359-51, 359-53, 359-54)

§17-526-12 Development of public land. In the event the authority determines that certain public lands are feasible for development, the authority shall not possess the power to develop the public land if such power or such development:

- (1) Would endanger the receipt of any federal grant or impair the eligibility of any public body for a federal grant or prevent the participation by the federal government in any governmental program; or
- (2) Would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the state or such county, department or board.

[Eff: OCT 05 1991 ] (Auth: HRS §359-58) (Imp: HRS §359-58)

§17-526-13 Developers and contractors qualification and form of proposal. (a) A developer shall be deemed eligible if it is an "eligible developer" as defined in §359-52, HRS and meets all requirements of §17-525-13.

(b) A contractor shall be deemed eligible if it meets all requirements of §17-525-13. [Eff: OCT 05 1991 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

§17-526-14 Criteria for selection of proposals. (a) The authority may choose to negotiate and contract with any one of the eligible developers or contractors whose proposals shall be deemed by the authority to best fulfill the purpose described in §359-51, HRS. In all cases, proposals must be in concert with the authority's elderly housing study, as defined in §359-52, HRS, and as mandated in §359-53, HRS. After such determination, the authority shall give preferential weight in accepting a proposal if such proposal shall provide for:

- (1) A proposal which will best meet the needs of the elderly requiring assistance in obtaining housing;
- (2) A proposal which will apprise the community, in which the dwelling units are to be constructed, of the nature of the proposed project by inviting community reaction and participation;
- (3) Housing projects priced at a level such that an economically feasible rent appropriate for the elderly can be achieved;

- (4) Design innovations that are likely to set a pattern for reduced cost of housing construction; and
  - (5) Other factors as deemed appropriate to the nature or involvement of the authority, including project adherence to Department of Housing and Urban Development (HUD) manual HUD pg. 46 ("Minimum Property Standards, Housing for the Elderly").
- (b) Proposals shall be submitted in accordance with §17-525-13(c). [Eff: OCT 05 1981 ] (Auth: HRS §259-54) (Imp: HRS §359-54)

§17-526-15 Processing of proposal. (a) Processing of proposals shall be in accordance with §17-525-17.

(b) If a proposal includes an application for federal assistance as well as financial assistance from the State, then said application shall be submitted to the authority for review and approval prior to submittal to the federal government. The authority's approval will be based on the overall consistency of the application with the development proposal under consideration. The authority shall act on said application within sixty working days from receipt thereof.

(c) If an application is approved, the authority shall send the application to the appropriate agency of the federal government for processing and approval. If the authority disapproves an application, it shall notify the sponsor of said disapproval. [Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

§17-526-16 Criteria for agreements. When the authority enters into an agreement with anyone whose services would aid in accomplishing the purposes of this program, then the agreement shall conform with §17-525-15. [Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

### SUBCHAPTER 3

#### STATE ASSISTANCE TO DEVELOPMENT OF ELDERLY PROJECTS

§17-526-21 Purpose. The purpose of this subchapter is to allow the authority to make loans available to

eligible developers and contractors. [Eff: OCT 05 1981 ]  
 (Auth: HRS §359-56) (Imp: HRS §359-56)

§17-526-22 Interim construction loans. In addition to the provisions of §359-56, HRS §17-525-32 may be utilized for interim construction loans. [Eff: OCT 05 1981 ] (Auth: HRS §359-56) (Imp: HRS §359-56)

§17-526-23 Submission of application. (a) A developer may submit an application for an interim construction loan upon a form prescribed by the authority. The application form shall conform to §17-525-43.

(b) In addition to the information and exhibits for projects requiring federal assistance, the developer shall submit to the authority within one hundred twenty (120) days from the date of application an executed copy of a conditional commitment letter issued by the Federal Housing Administration evidencing assurance that the project qualifies under a program of federal assistance for housing. If the developer shall fail to submit the conditional commitment letter as aforesaid, the application shall become void unless the authority shall have extended the period within which to submit the conditional commitment letter for good cause shown by the developer.

(c) The authority may charge service and commitment fees as well as other ordinary fees relative to the issuance of any interim construction loan. Amount of said fees will be determined on a case by case basis and as approved by the authority. Fees will not be in excess of the usual fees charged by commercial banks or financial institutions in the State of Hawaii.

(d) The rates of interest on interim construction loans issued by the authority under this provision shall not exceed the maximum yield permitted under Section 103(d)(2) of the United States Internal Revenue Code of 1954. [Eff: OCT 05 1981 ] (Auth: HRS §§359-54, 359-56) (Imp: HRS §§359-54, 359-56)

#### SUBCHAPTER 4

#### RENTAL UNDER CHAPTER 359, HAWAII REVISED STATUTES

§17-526-31 Purpose. This subchapter governs the general procedures for the rental of units developed

under this chapter. [Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

§17-526-32 Federal assistance programs. Rental units developed under this program, which are owned or managed by the authority and designated for housing assistance payments (HAP) by HUD's Section 8 program as established by 24 CFR, Part 880, 882, 883 shall be administered by Chapter 528, Title 17, Administrative Rules. [Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

§17-526-33 Non-Federal assistance programs. Dwelling units developed in accordance with chapter 359, HRS, without federal funds may be rented to qualified residents pursuant to the following:

- (1) Participants eligible for the rental units operated by the authority are those applicants:
  - (A) Who are defined as "elderly" and who qualify as a family;
  - (B) Whose gross family income does not exceed the maximum income limit established for state rent supplement program under Part VI of Chapter 359, HRS;
  - (C) Whose assets do not exceed the asset limits established for the state rent supplement program under §17-510;
  - (D) Whose earning capabilities or whose financial situation give reasonable assurance that they will be able to meet the recurring rental payments as they, from time to time become due;
  - (E) Who, either do not have an outstanding balance due the authority, or who, if there is such an outstanding balance have entered into satisfactory arrangements with the authority, for liquidation of same; and
  - (F) Who are bona fide residents.
- (2) All applicants for rental, and all tenants participating in this program, shall be required to provide the authority prior to admission into this program or from time to time as the authority may require, written statements under oath in such form as it may require, setting forth the applicant's

- financial condition or changes thereon and the authority may require a credit report from authorized credit reporting agencies at the expense of the applicant;
- (3) In the selection of tenants to participate in this program, the authority shall give preference to those who are displaced by governmental action and shall also give consideration to those applicants presently listed as eligible in other waiting lists maintained by the authority for rental programs, provided that such applications meet the criteria of this rule;
  - (4) The authority or its managing agent enter into a rental agreement providing rental assistance to an applicant within the income eligibility requirements specified in these rules, if, in its judgment, the applicant's income appears sufficient to pay the basic monthly rental charge and the cost of essential utilities not included in the basic rent and in making that determination, the authority shall consider the following factors:
    - (A) The amount of financial or other assistance available from other county, state or federal agencies which effectively increase the applicant's income;
    - (B) The applicant's history of rent-paying ability at levels equal to or greater than the basic rental charge; and
    - (C) Such other factors which will bear upon the applicant's ability to pay rent;
  - (5) Every effort should be made to insure the monthly rent for all units in the rental housing project not to exceed the amount necessary to pay for the construction and maintenance costs of the units plus any other costs determined by the authority prorated among the rental units in the project;
  - (6) A rental agreement in the form prescribed by the authority shall be entered into between the authority and each of the families and shall be kept current at all times and reflect the rent being charged and the conditions governing occupancy.
    - (A) The rental agreement shall be executed in duplicate by all adult members of the family who shall be liable for the rental

payments. The original of the rental agreement shall be retained by the authority and one copy given to the family. The failure of any signer of the rental agreement to continue to be a resident member of the family shall not affect the obligation of the remaining signers of the rental agreement.

- (B) If, at any time during the term of the rental agreement, any change in the tenant's status results in the need to change or amend any provisions of the agreement, an appropriate amendment is to be prepared and made a part of the existing agreement. All amendments to the rental agreement are to be executed in the same manner as the basic agreement.
- (7) Forms for rental agreement will be as prescribed by the authority. The forms as well as the house rules may be subject to revision.
- (8) All applicants denied eligibility under this rule shall be afforded the opportunity to an informal hearing to discuss the reasons for denial. No further appeal shall be allowed except as provided by law for judicial review.

[Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

## SUBCHAPTER 5

### MISCELLANEOUS PROVISIONS

§17-526-41 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person or transaction or other circumstances is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other persons or transactions or circumstances shall not be affected.

[Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §359-54)

§17-526-42 Number. The use of all words used in the singular shall extend to and include the plural.

[Eff: OCT 05 1981 ] (Auth: HRS §359-54) (Imp: HRS §1-17)