
Key Features of Part 245 Tenant Participation in Multifamily Housing Projects

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Sources

The statute is at 12 USC 1715z-1b
The regs are at 24 CFR Part 245
Chapter 4 of Handbook 4381.5(Rev.2)
June 18 and August 27, 2010 Memoranda from Deputy Secretary for Multifamily Housing

Congressional statement of purpose:

“The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs.”

Tenants Have A Right To Organize

Tenants have a right to organize and tenant organizations have a right to represent their members.
Owners may not impede these rights.

[§1715z-1b(b)(4)]

Tenant organizations can address issues related to their living environment.
This includes:

- The terms and conditions of their tenancy.
- Activities related to housing and community development.

[§245.100]

Owners must recognize tenant organizations and consider their concerns.

[§245.105]

A legitimate tenant organization is one established by tenants, independent of owners, represents all residents, operates democratically, and meets regularly.

[§245.110]

Aiding The Right of Tenants to Organize

Protected Activities

Whether attempting to establish a tenant organization or operating an existing tenant organization, owners must allow the following activities by tenants and organizers:

- Distributing leaflets in lobbies and common areas, and placing leaflets at or under residents' doors. Posting information on bulletin boards.
- Contacting residents and conducting door-to-door surveys.
- Helping residents participate in the organization's activities.
- Holding regular meetings on site.
- Responding to an owner's request to: increase rents; change from project-paid utilities to tenant-paid utilities; reduce utility allowances; convert residential units to non-residential units or to condos or coops; and, make major capital additions; prepay loans.

(Owners and managers cannot attend resident organization meetings unless invited.)

[§245.115]

Meeting Space

Community rooms or other spaces suitable for meetings must be available, and they must be accessible to people with disabilities (unless impractical for reasons beyond the tenant organization's control).

Owners may charge a fee if fees are charged for other uses too; HUD however, must approve the fee.

[§245.120]

Recognizing Tenant Organizers

Owners must allow tenant organizers to assist tenants to establish or run a tenant organization. If a project has a written policy prohibiting canvassing that is consistently enforced, then a tenant organizer who is not a tenant must be accompanied by a tenant.

[§245.125]

Obstacles To The Right of Tenants To Organize

In addition to an owner's failure to comply with all of the features mentioned, the Handbook gives other examples of obstacles. They include:

- Evicting or threatening to evict someone for organizing or asserting their rights.
- Withholding entitlements or otherwise penalizing someone for organizing or asserting their rights.
- Attempting to influence resident leaders by offering them personal favors such as a job, rent abatement, favored repairs, or other benefits not available to all.
- Attempting to form a competing resident organization.

Required Notice and Comment When Owner Seeks to Increase Rents,

Reduce Tenant Utility Allowances, Convert To Tenant-Paid Utilities, or Convert to Non-Residential Use or to Condo or Coop

Notice and Comment

Except for high-rise projects, notice must be delivered or mailed to each unit.

At high-rise projects, notice can be by direct delivery or by posting in at least three conspicuous places in each building.

Notice must be given 30 days before an owner sends a request to HUD.

Materials regarding the request must be available to residents during normal business hours for 30 days.

- The regulations indicate what information must be in the materials, depending on the type of request.
- The notice should give the address where the materials are available for residents to read and copy.
- Representatives of residents (such as legal aid or tenant organizer) can also review and copy the materials.

Residents can submit written comments during this 30-day period.

- Owners must certify that they considered resident comments.
- Owners will send the comments to HUD; but if residents wish, they can send comments directly to HUD.

If there are any major changes to the owner's request, residents must get notice of the change and have 15 days to review the change and submit written comments.

After HUD acts on the owner's request, residents must be notified by the owner.

An approved request cannot go into effect until 30 days after residents are given notice of the approval.

Enforcement

Owners who violate any of the tenant participation rules can be subject to "civil monetary penalties" or be denied future participation in their project's Multifamily program or from other federal programs for various periods of time.