



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-5000

OFFICE OF THE ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

June 6, 2002

Dear Public Housing Directors:

In light of several inquiries that HUD has received recently, the Secretary has asked me to share with you our views regarding the March 26, 2002, decision of the Supreme Court in *HUD v. Rucker*.

In *Rucker*, the Court unanimously affirmed the right of public housing authorities, under a statutorily-required lease clause, to evict entire public housing households whenever any member of the household, or any household guest, engages in drug-related or certain other criminal activity. The *Rucker* decision upholds HUD regulations that, since 1991, have made it clear both that the lease provision gives PHAs such authority and that PHAs are not required to evict an entire household - or, for that matter, anyone - every time a violation of the lease clause occurs.

Therefore, after *Rucker*, PHAs remain free, as they deem appropriate, to consider a wide range of factors in deciding whether, and whom, to evict as a consequence of such a lease violation. Those factors include, among many other things, the seriousness of the violation, the effect that eviction of the entire household would have on household members not involved in the criminal activity, and the willingness of the head of household to remove the wrongdoing household member from the lease as a condition for continued occupancy. The Secretary and I urge you to consider such factors and to balance them against the competing policy interests that support the eviction of the entire household.

Like Congress and the Supreme Court, HUD recognizes that PHAs are in the best position to determine what lease enforcement policy will most appropriately serve the statutory interest of protecting the welfare of the entire tenant population. I know that you will continue to act in a manner that protects that general welfare, while giving consideration - when you deem it appropriate - to the interests of individuals who share a household with the wrongdoer, but were otherwise unconnected with the wrongdoing.

Sincerely,

A handwritten signature in black ink, which appears to read "Michael M. Liu", is positioned above a horizontal line.

Michael M. Liu
Assistant Secretary



U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, D.C. 20410-0001

THE SECRETARY

April 16, 2002

Dear Public Housing Directors:

On March 26, 2002, the highest court in the land ruled on a case addressing the use of illegal drugs in public housing.

Specifically, the Supreme Court of the United States upheld the household responsibility clause, which holds tenants responsible when a member of the household or a guest engages in drug-related activity. This clause is clearly explained in the lease agreements of public housing tenants and is an enforceable contract that tenants enter into voluntarily.

The enforcement of this clause is left to the discretion of each public housing agency; however, I would like to urge you, as public housing administrators, to be guided by compassion and common sense in responding to cases involving the use of illegal drugs. Consider the seriousness of the offense and how it might impact other family members.

Eviction should be the last option explored, after all others have been exhausted. As Chief Justice William Rehnquist noted in the Court's opinion, "The statute does not require the eviction of any tenant who violated the lease provision. Instead, it entrusts that decision to the local public housing authorities, who are in the best position to take account of, among other things, the degree to which the housing project suffers from rampant drug-related or violent crime."

By addressing activities that threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants, the household responsibility clause provides public housing authorities a strong tool to use in dealing with the problem of illegal drugs. But as a tool, it should be applied responsibly. Applying it rigidly could generate more harm than good.

We look forward to working with you on a firm yet compassionate way of applying this new tool to benefit the residents of public housing.

Sincerely,

Mel Martinez