

**DHCD TENANT SELECTION
ADJUDICATORY HEARING
DECISION INDEX
VOLUME XXV**

Includes all decisions made between November 18, 2008 and May 18, 2009.
Requests for copies of cases should be made by case number to the DHCD Legal Office.
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From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
11/26/2008	1543	Unqualified	Upheld LHA	Applicant is Level 2 Sex Offender, released from prison in 2005 and on probation until 2022. Applicant had attended programs in prison and was currently receiving individual and group therapy and in compliance with the terms of his probation. Mitigating circumstances not sufficient to outweigh serious criminal activity.
11/26/2008	1539	Unqualified	Upheld LHA	Applicant had very bad landlord reference from 6 month tenancy from which she was evicted for nonpayment of rent. LHA allowed her to be added to a lease in its public housing development and the same disqualifying behaviors occurred; tenant was moved to an elderly development in lieu of eviction. Applicant had just started counseling, but had no unbiased references to show a reasonable likelihood of favorable future conduct.
12/15/2008	1554	Priority	Dismissed	Applicant withdrew request for review
01/05/2009	1542	Unqualified	Upheld LHA	Applicant was disqualified for history of nonpayment of rent and failure to provide verification of income. Although Applicant provided further income documentation at the DHCD hearing, history of nonpayment of rent was disqualifying. Applicant had failed to pay rent at her only prior tenancy and did not show that she paid over 50% of household income or that she would be reasonably likely to pay rent in the future.
01/08/2009	1550		Dismissed	Applicant withdrew request for review.

From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
01/12/2009	1469	Unqualified	Upheld LHA	Applicant was former tenant of the LHA who had been evicted in 2002 for drug dealing in his apartment. The Applicant's CORI showed subsequent offenses in 2005 for Assault & Battery with a Dangerous Weapon and Disorderly. No mitigating circumstances or evidence of rehabilitation shown.
01/14/2009	1503	Unqualified	Overtured LHA	Applicant had conviction for statutory rape in 1977, and since that time had convictions for driving under the influence and malicious destruction of property with the most recent offense in 1994. Applicant had good reference from rooming house where he resided for 8 years and was in recovery from alcohol abuse. Mitigating circumstances outweighed history of criminal activity.
01/23/2009	1540	Unqualified	Upheld LHA	Applicant had convictions in 2006 for illegal drug possession and violent misconduct and another violent crime in 2004. Applicant graduated a residential treatment program for substance abuse in 2007, and was disabled from post traumatic stress and bipolar disorder. Applicant requested a reasonable accommodation, but made no showing that his substance abuse caused his criminal behavior and provided no assurance of favorable future conduct.

From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
01/30/2009	1480	Priority	Remanded to LHA	Applicant arrived from Puerto Rico, applied at LHA and requested that her application be granted Emergency Case Status under the Abusive Situation Priority. LHA denied the Priority, claiming that she had insufficient documentation of domestic violence. Applicant submitted three restraining orders from courts and a letter from a Domestic Violence Specialist, which was adequate to document eligibility for the priority where all the other criteria of the Emergency Case Plan were met. At the time of the hearing, Applicant had found permanent housing, remanded to determine whether the LHA would have offered her a unit before her emergency case status would have been revoked.
01/30/2009	1555		Dismissed	Applicant failed to appear for hearing.
02/04/2009	1548	Unqualified	Upheld LHA	Applicant was found not guilty of criminal assault charges, but landlord reference stated that he was evicted due to a violent assault on neighboring tenants. Applicant vacated his subsidized housing apartment under an agreement for judgment in that eviction case. No mitigating circumstances were shown.
02/10/2009	1538	Unqualified	Dismissed	LHA refused to allow tenant to add a member to his household because the member was unqualified. Pursuant to 760 CMR 5.05(4), the tenant's sole administrative remedy is to file a grievance under the LHA's grievance procedure.

From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
02/11/2009	1549	Unqualified	Upheld LHA	Applicant's credit report showed 3 evictions for nonpayment of rent since 2002, and she received a very poor landlord reference from a 2007-2008 tenancy. Applicant did not show that she paid over 50% of household income for rent or any other mitigating circumstances.
02/17/2009	1541	Unqualified	Upheld LHA	Applicant had history of criminal activity including Theft of Government Property in 2003 as well as Prostitution and related charges in 1984. Applicant denied having a criminal record on her application, and admitted that she lied to avoid disqualification. Applicant also denied having received prior housing assistance because her 2003 conviction involved using her Section 8 rental voucher to purchase a condominium.
02/19/2009	1557	Priority	Dismissed	Case settled.
02/19/2009	1570	Unqualified	Dismissed	Case settled.
02/24/2009	1547	Unqualified	Dismissed	Applicant failed to appear for hearing.
02/27/2009	1562	Unqualified	Upheld LHA	Applicant for elderly/disabled, MRVP and AHVP was evicted from a prior tenancy at the LHA in 2007. LHA had made efforts with social service agencies to save the Applicant's tenancy but he was non-compliant. Applicant stated that he now recognized that his hoarding behavior was due to his mental disability, but has been living with his parents since his eviction and provided no evidence to show that he would be reasonably likely to pay his rent and abide by the lease.

From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
03/05/2009	1559	Unqualified	Dismissed	Applicant withdrew request for review.
03/10/2009	1456	Unqualified	Remanded to LHA	Applicant was former tenant of the LHA who was late paying rent and late with rent recertifications. Neighbors also alleged that her children bothered other children and that she had an unauthorized occupant and a dog living in the premises. Applicant voluntarily terminated her 5 year tenancy and left damage and trash in the unit. At the DHCD hearing, the Applicant showed that she had been hospitalized for mental illness and that she was now being successfully treated. Applicant also showed that she had good references from two subsequent tenancies. Remanded to LHA to consider the new evidence of mitigating circumstances.
03/10/2009	1546	Unqualified	Upheld LHA	Applicant was former tenant of the LHA who was evicted for nonpayment of rent in 2005. Applicant had two subsequent tenancies with very bad landlord references. Insufficient mitigating circumstances were shown.
03/16/2009	1568	Unqualified	Upheld LHA	Applicant had history of criminal activity from 1985 to 2006 consisting of 75 offenses and multiple incarcerations. He was most recently released from prison in December, 2007 and relapsed into drug abuse in May, 2008. Rehabilitation not well documented and inadequate to outweigh lengthy criminal history.

From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
03/26/2009	1569	Priority	Upheld LHA	Applicant was evicted after foreclosure on his home for nonpayment of his mortgage. Applicant subsequently rented a room from a friend, and vacated when she asked him to leave because she needed the room for her family. Neither situation met the criteria for Homeless Priority.
04/03/2009	1566	Unqualified	Upheld LHA	Applicant was convicted of Assault & Battery, Resisting Arrest and Disturbing the Peace in 2007 and had a prior criminal record. Applicant was in recovery from alcoholism and was discharged from probation two months prior to the hearing. Insufficient time had passed to show reasonable likelihood that Applicant would not reoffend.
04/03/2009	1563	Unqualified	Upheld LHA	Applicant vacated a tenancy at another LHA in accordance with an Agreement for Judgment in an eviction case for nonpayment of rent. Two subsequent landlords also reported nonpayment of rent. No reasonable likelihood that Applicant's rent paying habits would be improved.
04/10/2009	1572	Unqualified	Overtured LHA	Applicant was disqualified due to landlord reference citing nonpayment of rent. Applicant showed that she lived with a resident custodian who had no obligation to pay rent.

From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
04/10/2009	1565	Unqualified	Upheld LHA	Applicant was former tenant of another LHA that gave her a poor reference citing nonpayment of rent, disturbances, damage and failure to give notice of termination. Applicant paid the LHA the outstanding monies owed, but denied the remaining allegations. No mitigating circumstances shown.
04/27/2009	1573	Unqualified	Upheld LHA	Applicant is a Level 2 Sex Offender who was released from prison less than one year prior to the hearing and is on probation until 2013. Applicant's participation in treatment and counseling not sufficient to outweigh recent serious disqualifying misconduct.
04/28/2009	1574	Priority	Upheld LHA	Applicant applied for "court ordered no-fault eviction" priority under LHA's tenant selection plan. Applicant was evicted for nonpayment of his mortgage and not for a "no-fault" reason.
04/30/2009	1561	Unqualified	Remanded to LHA	Applicant lived with her mother who was a tenant at another LHA and she was disqualified for failure to prove that she would pay the rent and abide by the lease in her own tenancy. During the appeal, the LHA learned that the Applicant made misrepresentations on the application. Remanded to LHA to provide notice and opportunity to be heard on new grounds.
05/06/2009	1551	Unqualified	Dismissed	Applicants failed to appear for hearing.

From 11/18/2008 To 05/18/2009

Dates	Case #	Type	Outcome	Summary
05/07/2009	1571	Unqualified	Overtured LHA	Applicant was disqualified for history of criminal activity. CORI and Triple I reports showed several pending charges, including shoplifting and Assault & Battery from 2005-2008. The Applicant proved that the pending charges were dropped except for Driving without a License that was placed on file and Larceny under \$250 for which the Applicant was given one year of probation. The Applicant showed that these offenses were committed while she was in extreme financial and emotional straights. Only criminal activity that was established by the evidence was outweighed by mitigating circumstances.
05/08/2009	1567	Unqualified	Upheld LHA	Applicant had history of criminal activity in Massachusetts and Florida from 1974 to 2001, including serious illegal drug offenses. No mitigating circumstances or evidence of rehabilitation shown other than the passage of time with no further prosecutions since his release from prison.