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For Customers of Ross Business Development, Inc.

RBD FASTFACTS - HOARDING & REASONABLE ACCOMMODATIONS

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FASTFacts
Hoarding & Reasonable Accommodations

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Disclaimer

The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in The Multifamily Housing industry. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and in December 2013 and subsequent notices and memos from HUD.

These materials were updated 1/2021.

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Owners and management should seek competent legal advice in developing and carrying out housing policies and procedures.

We have been diligent in our efforts to provide comprehensive and accurate regulatory instruction; Ross Business Development shall not be responsible for errors or inaccuracies.

HOARDING

Many of us collect or keep objects—perhaps more than we should—because they have sentimental value or we may “need them someday.” But compulsive hoarding is more than simply having too much clutter.

In May of 2013, the American Psychiatric Association (APA) confirmed what property management companies and owners and Fair Housing practitioners have already known: Hoarding is a mental disorder therefore hoarders may be disabled and protected under fair housing law.

This official classification should serve as a reminder that handling hoarders is a delicate situation and, if not handled correctly, could have serious fair housing implications. Mental health experts define clinical hoarding as:

- The acquisition of, and failure to discard, a large number of possessions that appear to be useless or of limited value;
- Living spaces that are cluttered enough that they can't be used for the activities for which they were designed; and
- Significant distress or impairment in functioning caused by the hoarding.

The underlying causes of clinical hoarding are often poorly understood. Most often, hoarding involves a mental condition—such as obsessive-compulsive disorder, anxiety disorder, or chronic depression. Hoarding may also be the side-effect or result of a physical impairment such as a brain injury or disease. For example:

- Charlie suffers from chronic depression that makes him unable to decide what to keep and what to throw away. Books and papers pile up in his apartment.
- Sarah's obsessive-compulsive disorder drives her to hoard appliances and clothes from garage sales into her apartment, which is already full.
- Darla's brain injury from a car accident makes it hard for her to remember where things are in her apartment. Because of this, she keeps buying the same supplies over and over again.

The term, “Diogenes Syndrome,” is sometimes used to describe the stereotypical reclusive elderly person living in domestic squalor, often amid excessive clutter.

In some cases, medical experts are unable to pinpoint a physical or mental impairment to account for clinical hoarding.

Hoarding isn't limited to common possessions, such as clothing, newspapers, or plastic bags; some people hoard garbage and rotting food— even animals or human waste products.

Any and all can lead to serious health and safety problems involving fire hazards, impaired air quality, mold growth, pest infestation, and structural damage, which can spread rapidly and lead to serious injury or disease without prompt attention.

For multifamily communities, hoarding can pose serious health and safety problems—not only in the affected unit, but also to neighboring units and the community at large. Potential problems include:

- Noxious odors
- Pest infestation (bed bugs, roaches, mice)
- Increased risk of injury or disease
- Fire hazards
- Damage to the unit structure

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POLICIES TO ADDRESS HOARDING

At some point, it's likely that your community will be confronted with a hoarding problem. Owner/agents should develop instruction, in Unit Inspection Policies, to address Hoarding.

The owner/agent will take special measure when the owner/agent suspect hoarding.

There are five levels of hoarding. They are defined as follows.

LEVEL ONE HOARDING

All doors and stairways of the home are accessible.

Normal household pet activity with light evidence of rodents or pests. One to three pet accidents evident.

Clutter is not excessive. Home has normal, healthy housekeeping and safe and healthy sanitation. No odors.

LEVEL TWO HOARDING

One exit is blocked and/or one major appliance or heating/cooling/ventilation device has not worked for at least six months.

Some pet odor, pet waste puddles, light pet dander, three or more incidents of feces in litter boxes. Limited fish or bird care and light to medium evidence of common household rodents/insects.

Clutter inhabits two or more rooms. Functions are unclear for living room and bedrooms. Slightly narrowing pathways throughout the home. Limited evidence of housekeeping, light unpleasant odors, overflowing garbage cans, light to medium mildew in kitchens and bathrooms, and moderately soiled food preparation surfaces.

LEVEL THREE HOARDING

Visible clutter outdoors, including items normally stored indoors, such as televisions and sofas.

Two or more broken appliances, inappropriate/excessive use of electrical cords and light structural damage in one portion of the house has occurred in the past six months.

Pets exceed limits, excluding well-cared-for new kitten and puppy litters. Stagnant fish tanks, and/or bird droppings not cleaned. Audible rodent evidence, light flea, bed bug or other parasitic infestation and a medium amount of spider webs.

Indoor clutter leads to narrow hall and stair pathways, one bedroom or bathroom isn't fully usable and small amount of obviously hazardous substances or spills.

Excessive dust, dirty bed linens and no recent vacuuming or sweeping. Heavily soiled food preparation areas and full or odorous garbage cans.

Dirty laundry exceeds three full hampers per bedroom. Strong unpleasant odors throughout the house.

LEVEL FOUR HOARDING

Structural damage older than six months, mold and mildew, inappropriate use of appliances, damage to two or more sections of wall board, faulty weather protection, hazardous electrical wiring and odor or evidence of sewer backup.

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Pets exceed limits by four animals, more than three instances of aged animal waste, pet dander on all furniture, pet damage in home, excessive webs and spiders, and flea, bed bug or other parasitic infestation.

Bedroom is unusable, hazardous materials are stored in the home, and flammable, packed materials are in the living area or attached garage.

Rotting food on counters, one to 15 cans of aged canned goods with buckled surfaces, no clean dishes or utensils in kitchen. No bed covers, lice on bedding.

LEVEL FIVE HOARDING

Obvious structural damage, broken walls, disconnected electrical service, no water service, no working sewer or septic system. Standing water indoors, fire hazards and hazardous materials exceed local ordinances.

Pets are dangerous to occupant and guests. Rodents in sight, mosquito or other insect or parasitic infestation and regional critters, such as squirrels, inside the home.

Kitchen and bathroom unusable due to clutter. Occupant is living or sleeping outside the home. Human feces, rotting food and more than 15 aged canned goods with buckled surfaces inside the home.

DEVELOPING A RESPONSE WHEN RESIDENTS ARE HOARDING

This is a serious offense and can result in the termination of tenancy. You should define what a resident should do when they receive a lease violation for hoarding.

Residents are required to do the following:

1. Schedule and participate in a meeting with management in no more than ten (10) business days.
2. Return the unit to a decent, safe and sanitary condition

If a resident is unable to correct the problem or if a resident is overwhelmed by the effort it would take to correct the problem, owner/agents should make sure the resident knows that he/she should contact the property management staff who will assist by providing potential resources to help with this task.

It is important that residents address these issues as soon as possible to avoid eviction.

INCREASING THE FREQUENCY OF UNIT INSPECTIONS

When we write Unit Inspection policies for our customers, we increase the number of inspections based on the level of the problem. Our most popular recommendations are as follows:

With Level One or Level Two Hoarding, the owner/agent may address any repairs and will repair or replace any appliance that is not working. The resident is expected to address other issues. Once unit inspection findings are addressed, unit inspection frequency will increase to once every quarter until the unit “passes” four unit inspections.

With Level Three Hoarding, any Exigent Health And Safety issues must be addressed within 24 hours. The owner/agent will address any repairs and will repair or replace any appliance that is not working. The resident is expected to address other issues. Once unit inspection findings are addressed, unit inspection frequency will increase to:

- Once every month until the unit “passes” six-unit inspections;
- Then will be reduced to once every quarter until the unit “passes” four-unit inspections;
- Then will be reduced to once every six months until the unit passes two inspections.

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With Level Four or Level Five Hoarding, unit inspections increase to daily inspections until the unit is returned to a decent, safe and sanitary condition. The owner/agent will address any structural repairs and will repair or replace any appliance that is not working. The resident is expected to address other issues. Once unit inspection findings are addressed, unit inspection frequency will increase to:

- Once every month until the unit “passes” six unit inspections.
- Then will be reduced to once every quarter until the unit “passes” four unit inspections.
- Then will be reduced to once every six months until the unit passes two inspections.

If the resident makes no attempt to return the unit to a decent, safe and sanitary condition, the owner/agent will initiate termination of tenancy.

HOARDING & REASONABLE ACCOMMODATION

Owner/agents are required to alter their rules, policies, practices, or services when necessary to ensure that a person with a disability is provided with equal opportunity to use and enjoy housing.

In hoarding cases, the owner/agent may be asked to delay eviction proceedings to allow enough time for the resident to return the unit to a decent and safe condition. Assuming it is safe to do so, the owner/agent may have to approve the request, made by or on behalf of the resident, because there is the presence of a disability and a nexus between the requested accommodation and the resident’s disability.

***Example:** In 2010, a court ruled that a District of Columbia cooperative community violated the Fair Housing Act by failing to accommodate a resident who had severe mental disorders. Based on reports of bedbugs in the building, including in the resident’s unit, the community hired exterminators to inspect and treat the infestation.*

The resident allowed an inspection, but limited access by the exterminators. Upon visiting the unit, property managers and his caseworkers found the unit to be extremely cluttered with books and papers stacked floor to ceiling, unsanitary conditions, and a serious infestation of cockroaches and bedbugs.

The board revoked his shares, despite the resident’s efforts to clean and treat the pest infestation, and sued to recover possession of the unit.

The court granted the resident’s request for more time to correct problems in the unit, noting that he had already taken steps to eliminate the bedbugs and to clean his unit by throwing out “hundreds of pounds” of books and clothing. Nevertheless, the court found that he was in denial about the severity, of the infestation and the need to temporarily vacate the unit for satisfactory extermination to take place.

With court oversight, the cleaning and extermination were completed, and the resident was allowed to move back in a few months later. The court went on to rule that the co-op violated fair housing law by revoking the resident’s shares despite knowledge of his disability and his need for an accommodation of more time and professional assistance to clean and exterminate the unit.

Despite frustration with his resistance, the court ruled that the board engaged in a discriminatory act by not making a more concerted effort to provide the reasonable accommodation before revoking his shares and suing for possession [Rutland Court Owners, Inc. v. Taylor, July 2010].

Fair housing laws do not force an owner/agent to accommodate an individual with a disability whose tenancy poses a direct threat to the health or safety of others or substantial physical damage to the property of others, unless the threat may be eliminated or significantly reduced by a reasonable accommodation.

If the hoarder fails or refuses to clean the unit, despite your best efforts to accommodate her requests for more time, then you have a right to protect the health and safety of other residents as well as avoid further property damage to the unit and surrounding areas.

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LISTEN FOR REASONABLE ACCOMMODATION REQUESTS

When a unit inspection reveals signs of hoarding, follow your standard policies and procedures for addressing safety and health problems. Comply with requirements dictated by the lease and applicable law if conditions inside the unit are bad enough to pursue eviction proceedings.

Listen for reasonable accommodation requests, which may be framed as something the resident “needs” or “wants” because of a disability. In hoarding cases, it’s usually a request from the resident or a family member to delay legal action against the resident to give him more time to clean out the unit. In most cases, that’s enough to qualify as a reasonable accommodation request since the Fair Housing Act doesn’t require that the request be made in a particular manner or at a particular time.

Remember, according to federal guidelines, a resident or applicant makes a reasonable accommodation request whenever he makes it clear to the housing provider that he’s requesting an exception, change, or adjustment to a rule, policy, or practice because of a disability. In addition, the request need not come directly from the person with the disability; the request may be made by a family member or someone acting on his behalf.

PROMPTLY RESPOND TO REASONABLE ACCOMMODATION REQUESTS

Follow your RAM Policy if asked for extra time to address hoarding problems within a unit.

Depending on the health and safety risks involved, you may not have to grant the request—but you do have to take it seriously by responding formally and promptly. Under HUD guidelines, an undue delay in responding to a request may be deemed a failure to provide a reasonable accommodation.

Don’t ignore a request simply because you don’t believe the resident has a disability-related need for more time to clean up the unit.

UNDERSTAND YOUR RESPONSIBILITY

A request for an accommodation may be denied if unit conditions pose immediate or serious health and safety risks or if the resident is breaking the law as in cases of animal hoarding. Fair housing law doesn’t require owner/agents to approve accommodation requests that are unreasonable.

For example, allowing sanitary code violations or animal abuse to continue for an extended period could pose safety risks to other residents or expose your community to potential liability, fines, or other undue financial and administrative burdens.

Always evaluate the circumstances carefully before rejecting a requested accommodation on the grounds that it’s unreasonable. Owner/agents should always be willing to discuss alternatives that would effectively address disability related needs.

For example, you may work out a plan with time frames for resolving lease violations, but you may have to be flexible if the resident fails to shed enough clutter to remedy valid safety and health concerns. It may take multiple attempts, extended deadlines, or outside help to alleviate problems inside the unit.

Remember:

- You may have to be satisfied with less than “broom clean” conditions—if the resident remedies health and safety problems, it may be unreasonable to impose overly stringent standards.
- To keep things on track, the plan should allow for periodic inspections—as often as once a month, if warranted.
- Frequent inspections may help ward off future problems.

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- Any agreement should also spell out consequences for failing to maintain the unit as agreed—for example, by giving you the right to reinstate eviction proceedings if the resident fails to maintain the premises.

PROCEED WITH EVICTION IF ATTEMPTS TO ASSIST OR ACCOMMODATE FAIL

If the resident ignores warnings about lease violations or otherwise fails to abide by any efforts to resolve hoarding problems, you can initiate proceedings to recover possession of the unit. Be sure to document your compliance with notice provisions and other legal requirements imposed by HUD and by state and local law.

It's also important to have documentation of the condition of the premises, including pictures, descriptions, and witness testimony.

Even after legal proceedings have begun, however, you should be prepared for an 11th-hour request to delay eviction proceedings to allow the resident more time to clean up the unit.

Because hoarders are resistant to parting with their possessions, it often takes official legal proceedings that threaten their continued residency to prompt them or their families to do something to remedy the problem.