



## **TENANT SELECTION PLAN**

### **Lihue Theater Senior Apartments**

*January 2022*

The procedures contained in this Tenant Selection Plan (TSP) have been established in compliance with the Department of Housing and Urban Development (HUD) Handbook 4350.3, REV-1, Change 3, as amended, and all other applicable federal statutes and regulations. It is designed to promote fairness and uniformity in tenant selection and to promote efficiencies in the process by which applications are processed. The following policies and procedures apply to all applicants/tenants of Lihue Theater Senior Apartments (LTS), located at 3-3194 Kuhio Highway, Lihue, HI 96766. Mark Development, Inc. is the Managing Agent and referred to in this document as MDI.

#### **STATEMENT OF NON-DISCRIMINATION**

The policy of MDI is one of equal opportunity and non-discrimination in compliance with Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance from HUD; The Fair Housing Act Amendments of 1988 which prohibits discrimination in housing and housing related transactions based on race, color, religion, sex, national origin, disability and familial status. It applies to housing, regardless of the presence of federal financial assistance; and Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin in any program or activity receiving federal financial assistance from HUD.

These rights are also included in Hawaii Revised Statutes Chapter 515 which further expands the protection provided by State law. Together, Federal and State laws prohibit housing discrimination based on a person's race, color, religion, ancestry/national origin, sex, familial status, physical or mental disability, marital status, age, or HIV infection. Discrimination against a particular social or economic class is also. These requirements apply to all aspects of tenant relations including without limitation: accepting and processing applications, selecting residents from among eligible Applicants on the waiting list, assigning units, certifying and re-certifying eligibility for assistance and terminating tenancies.

HUD programs also must be operated consistently with HUD's Equal Access Rule which requires that HUD-assisted and HUD-insured housing are made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.

MDI will not discriminate on the basis of race, color, creed, religion, national or ethnic origin, citizenship, ancestry, sex, actual or perceived sexual orientation or gender identity, familial status, disability, age or any other basis prohibited by local, state or federal law in any aspect of tenant selection or matters related to initial and continued occupancy. MDI will affirmatively market the property as specified in its Affirmative Fair Marketing Plan.

#### **PROJECT-SPECIFIC REQUIREMENTS**

Lihue Theater Senior Apartments does not restrict occupancy to a certain population but restricts occupancy to "Elderly Families". "Elderly Family" means a family in which every member of the household is at least sixty-two years of age.



All applicants and tenants must be defined as an “Elderly Family” as described above and additionally meet the following requirements to be eligible for occupancy and housing assistance:

- The family’s annual income must not exceed program income limits.
- All adults in each applicant family must sign a Consent for the Release of Information prior to receiving assistance and annually thereafter.
- The unit for which the family is applying must be the family’s only residence.
- An applicant must agree to pay the rent required by the program under which the applicant will receive assistance.
- Only U.S. citizens or eligible noncitizens may receive assistance under Section 8, Section 236, Rent Supplement, Rental Assistance Payment (RAP), and Section 202/8 programs.
- All information reported by the family is subject to verification.
- Various subsidy or insurance programs may impose additional occupancy restrictions.

### **SOCIAL SECURITY NUMBER REQUIREMENTS**

In order for MDI to make an eligibility determination the applicant(s) must disclose their social security number(s) (SSN). The head of household/spouse/co-head must disclose SSNs for all family members regardless of age.

Applicant(s) MUST provide documentation of SSNs. The following lists accepted forms of documentation:

1. Original Social Security card
2. Driver’s license with SSN
3. Identification card issued by a federal, State, or local agency, medical insurance provider, or an employer or trade union.
4. Earnings statements on payroll stubs
5. Bank statement
6. Form 1099
7. Benefit award letter
8. Retirement benefit letter
9. Life insurance policy
10. Court records

### **ELIGIBILITY OF STUDENTS**

Households composed entirely of full-time students are NOT eligible for the Low-Income Housing Tax Credit Program (LIHTC).

A “full-time student” is defined by the IRS as taking 12 credit hours a semester or attending school full-time 5 months per year at an educational institution with regular facilities, other than a correspondence or night school. Student status is monitored on a tax-year basis, thus an applicant would not be eligible if the person had been a full-time student for 5 months of the tax year, even if they had graduated prior to applying for an LIHTC unit.

Student eligibility is determined at move-in/initial certification and at each annual certification. Student eligibility may also be reviewed throughout the year if a student status has changed since the last certification. All students are required to report any change in their student status. Any household violating the LIHTC Student Rule will be terminated.



EXCEPTIONS -- A unit would not be disqualified if it is occupied as specified in Section 42(i)(3)(D):

1. by an individual who is—
  - a. a student and receiving assistance under title IV of the Social Security Act,
  - b. a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or Part E of title IV of the Social Security Act (foster care), or
  - c. a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or
2. entirely by full-time students if such students are—
  - a. single parents and their children and such parents are not dependents (as defined in section 152) and the children are not dependents of another individual other than the parents, or
  - b. married and file a joint return.

### **OCCUPANCY STANDARDS**

Unit size, size of bedrooms and number of bedrooms are considered in the occupancy standard.

Occupancy standards for Lihue Theater Senior Apartments are set at:

One (1) Bedroom = minimum one (1) persons; maximum two (2) persons

### **INCOME LIMITS**

Applicant's annual income must not exceed program income limits established by HUD annually.

The income limits for units are:

Very Low-Income Limit          50% of Median Income

### **ACCEPTING APPLICATIONS**

Applications may be obtained at: (1) LTS' Management Office located at 3-3194 Kuhio Highway, Lihue, HI 96766; (2) MDI's main office located at 3165 Waiālae Avenue, Suite 200, Honolulu, Hawaii 96816; and/or by (3) Emailing [properties@mdihawaii.com](mailto:properties@mdihawaii.com) or calling 808-735-9099 ext. 1 and providing your full name, mailing address and the property interested in. Applications are also available on MDI's website: [www.mdihawaii.com](http://www.mdihawaii.com).

Completed applications may be returned in person or by mail at one of the two locations listed above. MDI also accepts completed applications by fax, email or via MDI's website listed above.

MDI will make accommodations to persons with disabilities who cannot utilize the above application process by providing an alternative method.

### **PROCEDURES FOR TAKING APPLICATIONS AND SELECTING FROM THE WAITING LIST**

All applications received will indicate the date and time received. All applications will be accepted, however, only fully completed applications will be processed. Applications are placed on our waitlist in chronological order by date and time that the completed application was received. Any "in-house" transfers will have priority on the waitlist.



All information on the application must be current. Should any information change, it is the sole responsibility of the applicant to inform MDI of such changes or risk cancellation of application. All person(s) (18 years or older) who will live in the apartment must provide their information on the application, sign the application, and be present at all interviews.

All applicant(s) will be notified in writing within ten (10) days from receipt of application as to the approval or denial of application. A letter of approval will state the date application was received and instructions on updating their application. A letter of denial will state the reason that the application was denied and the applicant will have fourteen (14) days from the date of letter to respond in writing or request a meeting to dispute the denial.

Any person identified as the following will be denied occupancy:

1. Was evicted from Lihue Theater Senior Apartments for any reason
2. Nonpayment of any financial obligation to Lihue Theater Senior Apartments
3. Was found to have engaged in any criminal or drug related activity in, on or near the premises, by any tenant, household member, guest or management.
4. Was found to have interfered with the health, safety, or right to peaceful enjoyment of the premises by existing tenants or management.

Upon notification of an anticipated vacancy, "Next on Waitlist" letters with an enclosed Authorization to Release Information form, will be mailed out to the first five (5) applicants on the waiting list. Applicants must respond and notify management of their intent; e.g., to remain/remove from waiting list. To be processed further for the anticipated vacancy, applicant must return the enclosed Authorization to Release Information form allowing Management to perform initial background screenings, including Landlord References. If no response is received within ten (10) days, the application will be automatically cancelled and removed from the waiting list with no further notice.

A "Verification Process" letter requesting income/asset documents will be mailed to those who have passed the initial background screenings. At this point in the process, it becomes FIRST COME, FIRST SERVED. Applicants who have successfully submitted all requested documents in the Verification Process will be scheduled for an Applicant Interview with MDI, as part of the background screening process. The first qualified applicant, who has passed all background screenings including Applicant Interview and submitted all documents requested by MDI, will be offered the available unit. The remaining interviewed applicants will be placed back on the waiting list in the order their application was originally received.

During an applicant's scheduled interview, each adult household member must be present and all adults must bring current photo identification. You will be notified by MDI if you are required to bring additional documents. Applicant(s) must sign all requested third-party verification forms, if needed, at the interview. HUD requires all information regarding income, disability, and living status to be verified. Failure to sign any one of the verification forms or the "Authorization for the Release of Information" form will result in automatic cancellation of the application. In the event the applicant(s) should miss two scheduled interviews with MDI, the application will be automatically cancelled with no further notice.

All applicants must update their application every six (6) months in writing (letter, e-mail, fax). Failure to update your application will result in an automatic cancellation of your application and you will be removed from the waitlist with no further notice.



Should MDI be unable to contact the applicant due to out of date information (returned mail, inactive telephone number), the application will be automatically cancelled and removed from the waitlist with no further notice.

### **WAITLIST PREFERENCES**

MDI will observe preferences listed below, prioritized in the order of the list:

1. Residence Geographic Area Preference: LTS shall give preference to applicants, first to residents to those residing and domiciled on the island of Kauai. Preference shall then be available to the residents domiciled in the State of Hawaii. All other applicants will follow. Applicants will be required to show proof of residency.
2. Housing Choice Voucher holders: Priority on the waitlist is given to applicants with a current Housing Choice Voucher or other similar tenant-based rental assistance.
3. VAWA Emergency Transfer (Internal): Existing tenants receiving rental assistance who is a victim of domestic violence, dating violence, sexual assault, or stalking, and reasonably believes that there is a threat of imminent harm from further violence if remaining within the same unit may be eligible for an emergency transfer. A tenant requesting an emergency transfer must expressly request the transfer and provide documentation of the occurrence of the incident.
4. Accommodation for Existing Tenants (In-house transfers): Priority on the waitlist is given for requests for a reasonable accommodation from existing tenants requiring unit transfers due to a disability (including requests for a unit specifically designed for disabled or handicapped persons as described in #3 below). This preference will be granted upon proper notification from the household and medical verification of need by MDI.
5. Units Specifically Designed for Disabled or Handicapped Persons: Priority given to households who require the features of a unit specifically designed for disabled/handicapped persons over other households who have no Handicapped or Disabled members. For units designed for accessibility to individuals with mobility, hearing or vision impairments, preference shall be given to households requiring such units. This preference will be granted upon proper notification from the household and medical verification of need by MDI.
6. Displaced by government action or a presidential declared disaster: Preferences will be verified at the time the application is submitted. Applicant must provide documentation of such action. If a written documentation cannot be obtained then management will verify the preference, by phone (notating date, time and person spoke to) with the appropriate local government agency or disaster relief office.

If there is no available unit at the time the application with preference is submitted, the applicant will be placed on the waitlist with a notation of preference.

When a unit becomes available, the applicants notated with a preference will have first priority over the applicants on the waiting list that do not have a preference. Applicants with preference must still complete the interview process and meet all eligibility requirements before being offered a unit. Having a preference does not automatically guarantee the applicant a unit.

### **UNIT TRANSFER POLICIES**

Any tenant requesting a unit transfer must submit a request in writing to MDI stating name, unit number and reason for the transfer. Tenant must be current in rent in order for their request to be considered.

The following are valid reason(s) accepted for unit transfers:



1. Transfer for family size
2. Change in family composition
3. A deeper subsidy
4. Medical reason certified by a professional
5. Need for an accessible unit
6. VAWA Emergency Transfer
7. Reasonable accommodation to a household member's disability

Any other reason other than the above should be explained and submitted in writing to MDI.

Your request will be processed and you will be notified in writing within seven (7) days of receipt of request as to approval/denial. If no unit is readily available, the tenant's name will be placed on a Unit in-house transfer waitlist in order of date request was received until an available unit is open.

Tenants on the in-house transfer waitlist will have first priority for filling vacant units in which they are eligible for (i.e., appropriate unit size based on household composition, reasonable accommodation request, etc.). If no eligible unit is available, the tenant will remain on the Unit Transfer Waitlist until an eligible unit becomes available. If no in-house transfers are eligible for the vacant unit, MDI will select eligible applicants from the property waitlist.

Reasonable accommodations will be considered if you are a person or persons with disabilities and is/are found to have an extenuating circumstance during the screening process. All information will be verified by MDI. If a tenant is transferred as a reasonable accommodation due to a disability, the cost associated with the transfer will be paid by the owner unless it will be an undue financial and administrative burden to property.

Tenant will be required to pay a new security deposit when transferring to a new unit. Completion of a check-out inspection will determine the amount of security deposit refund from the previous unit. The security deposit refund (if any) will be refunded within fourteen (14) days from date of move out. All approved "in-house transfers" will have priority over a new applicant/wait list.

#### **REJECTION OF INELIGIBLE APPLICANTS**

Rejections will be sent in writing when MDI makes the ineligibility determination. This written rejection notice shall include the following:

1. The specifically stated reason(s) for the rejection;
2. The applicant's right to respond to the owner in writing or request a meeting within 14 days to dispute the rejection; and
3. A note that persons with disabilities have the right to request reasonable accommodations to participate in the informal hearing process.

If the applicant(s) requests a meeting to discuss the applicant's rejection, it will be conducted by a member of MDI's staff who was not involved in the initial decision to deny admission or assistance.

1. Within five (5) business days of the owner response or meeting, the owner will advise the applicant(s) in writing of the final decision on eligibility.
2. All denied applications will be kept for three years along with copies of the denial letter to the applicant and any written documentation received through the screening process. At the end of the three calendar years, the applications will be destroyed.



### **EXTENUATING CIRCUMSTANCES**

If denied admission, reasonable accommodations will be considered if you are a person or persons with disabilities and is/are found to have an extenuating circumstance during the screening process. All information will be verified by MDI for reconsideration of the application.

### **SCREENING FOR CREDIT HISTORY**

1. Credit reports will be ordered for each Applicant. The credit report will be reviewed to determine the Applicant's history of meeting financial obligations including payments for rent, utilities, loans, revolving credit cards, and other obligations. Applicant's credit history must be acceptable to management before they will be approved to occupy a unit. The credit report will be reviewed to:
  - a. confirm current address;
  - b. confirm credit sources included on the application;
  - c. confirm current and past employment listed on the application; and
  - d. determine whether the Applicant has an acceptable credit history.

Applicants, whose credit histories are unacceptable, will be declined and removed from the waiting list. An unacceptable credit history is one that reflects consistent, past-due payments of more than 90 days; a history of repeated insufficient fund checks; derogatory credit (repossession, foreclosure, judgments, collections, charge-offs, liens, bankruptcy not yet discharged, etc); delinquent or charge off debt due other apartment communities; or unpaid utility company collections which would prohibit applicant from obtaining services. The lack of credit history or past due payments or derogatory credit relating to medical expense or student loans will not be considered as grounds for declining an Applicant.

Consideration will be granted when current credit history demonstrates a pattern of improvement; history of rent payment overshadows other debt issues or Applicant can demonstrate acceptable reasons for credit history. Applicants may wish to provide an explanation that reflects efforts to correct credit deficiencies through payment plans or other work out solutions. If such explanation is acceptable to management, further screening may be conducted and written confirmation of payment plans may be required from the creditor(s). In the event of the rejection of an application based upon credit, the Applicant has 14 days to provide an explanation and request further consideration.

MDI will provide instructions on how to obtain the credit report used in determining credit screening approval. It is the Applicant's responsibility to contact the credit reporting agency to resolve any items that have been incorrectly reported.

### **SCREENING FOR RENTAL HISTORY**

The applicant must provide the current and previous landlords' names, addresses and phone numbers. Current landlord must be able to verify:

- a) The applicant's willingness and ability to pay the rent on time,
- b) The applicant's ability to care for his/her/their current residence,
- c) The applicant's ability to abide by the Rental Agreement and House Rules of his/her/their current residence.

MDI reserves the right to reject an application solely on the basis of a negative landlord reference.



## **SCREENING FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY**

All applicant(s) 18 years and older will be required to complete a Certification and Authorization form to have a background check completed. Refusal to complete the Certification and Authorization form will result in automatic cancellation of the application.

Admission will be denied to a person who provides false information on the Certification and Authorization form. This means that if you indicate you have no criminal history but the report MDI receives shows a criminal history your application will be denied. Subsequently, the following will occur:

1. We will notify you in writing of the denial;
2. We will provide the subject of record and applicant with a copy of the information in which the denial was based on;
3. You will have fourteen (14) days from the date of the letter to respond in writing to request a meeting to dispute the denial.

Admission to LTS must be denied to a person who engaged in criminal activity within a reasonable time before applying for admission. The time starts after any sentence, including parole, if any, has been completed, so that a reasonable time may pass before determining whether the applicant is a safe risk for admission. In addition, the time period being used is five (5) years.

MDI will deny admission to federally assisted housing if:

1. Any household containing a member(s) who was evicted in the last five (5) years from federally assisted housing for drug-related criminal activity. There are two exceptions to this provision:
  - a. An approved, supervised drug rehabilitation program must have been successfully completed by the evicted household member; or
  - b. The circumstances leading to the eviction no longer exist (ex: the household member no longer lives with the applicant(s) household.
2. Any household member is currently engaging in illegal drug use.
  - a. The Owner, or its Agent, determines that there is reasonable cause to believe that a household member's illegal use or a pattern of illegal use of a drug may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. (Examples of evidence of illegal activities may include a conviction record, former landlord references, etc.)
3. Any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. In accordance with Federal law, Owners, or its Agent, shall establish standards that prohibit admission to any Federally assisted property to sex offenders subject to a lifetime registration requirement under a state sex offender registration program. During the admission screening process, the Owner, or its Agent, must perform the necessary criminal history background checks in the state where the housing is located and in other states where the household members are known to have resided.
4. The Owner, or its Agent, determines that there is reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.





In addition, the Owner, or its Agent, of a Federally assisted housing have the discretion to prohibit the admission of a household with a household member who is currently engaging in, or has engaged in during a reasonable time before the admission decision in:

1. Drug-related criminal activity;
2. Violent criminal activity;
3. Other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or
4. Other criminal activity that would threaten the health or safety of the PHA or Owner or any employee, contractor, subcontractor or agent of the PHA or Owner who is involved in the housing operations.

UNDER HUD GUIDELINES AN APPLICATION MUST BE CANCELLED SHOULD AN APPLICANT MEET ANY ONE OF THE ABOVE PROVISIONS, UNDER THE ABOVE PARAGRAPH (Screening for Drug Abuse and Other Criminal Activity).

#### **OPENING AND CLOSING OF THE WAITLIST**

If the waitlist should reach an average wait of two years or more, the waitlist will be closed until further notice. A notice to all potential applicants will be posted at the Residents Manager's Office and MDI's website stating that the waitlist is closed and the reason that additional applications will not be accepted.

Upon reopening of the waitlist, a notice to all potential applicants will be posted as stated above.

#### **REASONABLE ACCOMMODATIONS**

LTS and MDI do not discriminate against a person or persons with disabilities in its services and structures. LTS and MDI provide equal opportunity to all persons with disabilities and will make modifications to policies and/or structures upon request if the accommodation is both reasonable and financially feasible.

All requests for reasonable accommodations shall be submitted in writing to MDI. Upon request, the applicant/resident will also need to provide the name, address, and telephone number of a third-party professional who will verify that the applicant/resident is a person with a disability who requires the requested accommodation because of the disability. MDI will respond to the request as quickly as possible.

#### **VIOLENCE AGAINST WOMEN ACT (VAWA) PROTECTIONS**

An applicant for or tenant of housing assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

Effective December 16, 2016, under the implementation in HUD Housing Programs Final Rule of the Violence Against Women Act (VAWA) of 2013:

- An applicant cannot be denied admission/assistance based on their status as a victim.
- A tenant cannot be terminated from a housing program or evicted from a housing community based on their status as a victim.
- Criminal activity directly related to domestic violence, dating violence, sexual assault or stalking



engaged in by a member of the household or guest under control of the tenant cannot be used to terminate tenancy/assistance if the tenant or affiliated individual is a victim.

- Actual of threatened domestic violence, dating violence, sexual assault or stalking shall not be construed as a serious or repeated violation of the lease, or other 'good cause' to terminate assistance/tenancy or occupancy rights for the victim.

MDI may request in writing from the victim to certify that the individual is or has been a victim of domestic violence, dating violence, sexual assault or stalking by completing the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking (Form HUD-5382), or providing other documentation as noted on the certification form and submitted within 14 business days, or an agreed upon extension date, to receive protection under the VAWA. If applicant/tenant fails to provide the certification or other supporting and requested documentation within the specified timeframe, the Landlord does not need to grant the applicant/tenant any of the VAWA protections.

MDI can evict or terminate assistance of a tenant for any violation of the lease not related to the tenant's status as a victim. If MDI can demonstrate actual or imminent threat to other tenants, employees, or service providers, the Landlord is allowed to terminate assistance/evict the tenant if there is no other action that will reduce or eliminate this threat including but not limited to: transferring the victim to another unit, barring the perpetrator from the property; contracting law enforcement; or other legal remedies. When notified of a court order, the housing provider has the right to comply with the court order with respect to the right of access or control of property, including civil protection orders and the distribution or possession of property among members of the household.

#### **UPDATES TO THE TENANT SELECTION PLAN**

Lihue Theater Senior Apartments reserves the right to amend this Tenant Selection Plan from time to time when it is reasonably necessary to ensure that it accurately reflects current operating practices, program priorities, and HUD requirements. Current Tenant Selection Plan are available on MDI's website at [www.mdihawaii.com](http://www.mdihawaii.com).

