

# DCA Compliance Review Process



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# Agenda

- Overview of Compliance Review Timelines
- Notice of Compliance Review – Updated letter
- Physical Inspections – Important information
- HUD Pilot Program Participation 2015
- Submitting All Compliance Review File Types to DCA
- Compliance Officer's Audit – Important information
- Cure Responses – Physical and File Responses
- Audit Close Letter and Filing of Form 8823
- Management Company Approval Process
- Management Company Changes – Process for Requesting a Change with DCA

# Compliance Review Timelines

## from Beginning to End

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- Notice of Compliance Review: **14 days prior to the Site Visit Date/Date of Physical Inspection**
- Pre-Audit docs are due **Within 7 days of the date of the Notice of Compliance Review**
- Notice of the Units Selected for Review/Audit aka Interview Checklist , **the morning of the inspection date the inspector will fax or email to Site Office**
- Tenant Files for the Selected Units are due **7 days after the Physical Inspection date**
- DCA prepares and sends a Findings Letter, **within 40 days of the Physical Inspection**
- The Owner must submit all cures responses within **45 days of the date of the Notice to Cure aka Findings Letter**
- DCA issues a Closing Letter and files form 8823 with the IRS, **45 days after all cures are processed**  
**IMPORTANT NOTE:** Cure extensions requests, must be submitted prior to the end of the 45 day cure period, and may only be approved by DCA for extraordinary circumstances, and are only considered on a case-by-case basis

# Notice of Compliance Review

- ❑ This notice is sent by email to the Owner and Management Company on file with the most recent Annual Owner Certification (AOC) or from a more recently updated Property Information Sheet
- ❑ The letter indicates **three important pieces of information**:
  - ❑ the DCA Compliance Officer assigned to your Compliance Review
  - ❑ the due date for the Pre-Audit documents
  - ❑ the due date for the Tenant Files
- ❑ Your response to this letter **requires** specific information to be included in the email subject line; the assigned Compliance Officer, the GA ID number, Property name, followed by “Pre-Audit”
- ❑ Rent-rolls submitted with Pre-Audit documents must indicate the units designated as; Market, Handicap, and Audio-Visual

# Physical Inspections – Overall Rating Sheet

DCA's UPCS Physical Condition Internal Property Rating System

will now be included with the findings letter starting April 2015, this will provide a “snapshot” of DCA's overall assessment of the property's physical condition

□ **4 Overall Ratings Possibilities:** Unsatisfactory, Needs Improvement, Satisfactory, and Excellent

■ **5 Categories:**

- Overall Curb Appeal and Marketability
- Grounds Maintenance
- Building Exterior Maintenance
- Common Area Maintenance
- Unit Maintenance

# Physical Inspections - Reminders

## □ Reminders for the day of the Physical Inspection

- You will receive a list of the units selected for inspection on the morning of the inspection, directly from the DCA Inspection Consultant (by email or fax)
- Have a current rent-roll printed the day before to note any vacancy changes
- Have keys pulled, organized, and ready for the inspection
- The DCA Inspector will note all observed findings, even if repairs are made during the inspection (required by IRS)
- Communicate any concerns or feedback to DCA about the inspection process in writing

# Physical Inspections — HUD Inspection Pilot Program

- 2015 DCA is participating in a HUD sponsored Pilot Program for sharing physical inspections for properties with multiple programs/funding sources, it is an inter-agency effort, if your property qualifies, you will receive advance notice
- Projects funded by the two or more of the following may qualify:
  - Low Income Housing Tax Credit units
  - FHA Insured Loan
  - Sec 202 Direct Loan
  - Sec 811 Direct Loan
  - Sec 8 Project based Rental Assistance
  - USDA Section 515 Loan or Loan Guarantee

# Compliance Officer's File Audit



- ❑ Tenant Desk File Reviews
- ❑ On-Site Tenant File Reviews
- ❑ Physical Inspection Reports
- ❑ Findings Letter aka Notice to Cure



# Submitting Compliance Review Docs to DCA

- ❑ Do not submit multiple properties together in the same email
- ❑ **All** email submissions to the Review Submissions inbox require certain information in the subject line, see below
- ❑ Information **required** in the subject line for all compliance review submissions:
  - ❑ First initial and last name of Compliance Officer
  - ❑ Georgia ID number
  - ❑ Property name
  - ❑ File type(s):
    - Pre-Audit - File Cures - Physical Cures - Urgent HS Form

# Management Company Approval from DCA

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- ❑ The Legal Owner of the property is required to submit a request to DCA for any Management Change
- ❑ Information for Approved Management Companies
- ❑ Becoming an Approved DCA Management Company
- ❑ Letter to DCA requesting a Change of Management Company
- ❑ Gaining Access to the DCA MITAS Database System

# Approved DCA Management Companies

- The Owner or General Partner of Record **must** submit a letter requesting a change in management company along with a completely filled-out Property Information Form. The Property Information Form can be found at:  
<http://www.dca.ga.gov/compliance> under “Mandatory Forms, Notification or Requests, Property Information Form (xls) – 4/1/2014

# Management Companies Not Approved By DCA

- ❑ Owner or General Partner **must** submit a completely filled out Property Information Form. The Property Information Form can be found at: <http://www.dca.ga.gov/compliance> under **“Mandatory Compliance Forms, Notification or Requests, Property Information Form**
- ❑ Owner or General Partner **must** complete a Project Concept Change Request Workbook including the following forms:
  - ❑ Owner Performance Questionnaire
  - ❑ Manager Performance Questionnaire
  - ❑ Compliance History Summary - Complete with information on the status of properties you currently manage, in GA or other states
  - ❑ Multi State Release – This gives us authorization to obtain verification of your compliance status in other states

**Note: The Project Concept Change Request Workbook - will be posted to the DCA website in March 2015**

## Requesting a Management Company change: **30-days Advance Notice**

- The notice/letter **must be** submitted to DCA at least **30 days prior** to any change in the management company. DCA's review process will begin with the submission of the required documents. You may submit the documents to the attention of Linda Ballard:

[linda.ballard@dca.ga.gov](mailto:linda.ballard@dca.ga.gov)

# Gaining Access to the DCA MITAS Database System

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- DCA will notify you in writing along with the instructions for gaining access to the DCA MITAS Database System
- MITAS access **will not be** granted without proper notification and approval

# Common Non-Compliance Findings and Tips on Responding to a DCA Audit



February 2015

Thaphony Dumas and Licelotte Vasquez

# Common Problems and File Findings

- ❑ Pre-Audit information not submitted by the due date
- ❑ Incorrect file submitted for review or file not submitted at all
- ❑ MITAS tenant data not current or does not match tenant files submitted to DCA
- ❑ Most current utility allowances not being applied
- ❑ HOME funded properties - Approved Rent Letter from DCA not submitted with Pre-Audit information



# Common Physical Findings

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- ❑ Smoke detectors not working
- ❑ Dirty HVAC filters
- ❑ GFCI inoperable
- ❑ Flammable material stored at gas furnace or water heater
- ❑ Soil erosion property common areas
- ❑ Parking lot pot holes
- ❑ Handicap parking space faded
- ❑ Building Handrails peeling paint

# Audit Cures

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- ❑ Cure Response Process
- ❑ Common Errors
- ❑ Best Practices

# Cure Response Process

- Submit cures using the DCA Compliance Property Finding Cover Sheet. Complete one cover sheet for each numbered finding and label each document with the finding type, remember to include the unit # where applicable.
- Submit Cures to DCA Compliance at the following email address:  
[Review.submissions@dca.ga.gov](mailto:Review.submissions@dca.ga.gov)
- Remember, DCA cannot offer cure advice, only deficiency clarification

# Common Errors - All Cure Types

- **Date of Audit/Compliance Review not indicated on your response**
- **Incorrect/missing the date cured:** the actual correction date is missing on a document
- **Disorganized submission:** your cure response should address each item in the same order that it is listed on the findings report, and in an organized consistent manner
- **Your own cover letter has too much info:** Do not compile a separate cover letter with the full detail description listing the work performed, the detail should be included as part of each individual deficiency cure response you submit attached to the DCA Compliance Property Finding Cover Sheet for each deficiency. **Keep your cover letter limited to basic info; address it to the assigned Compliance Officer, include your contact info, the Property info, and the cure type attached.**

# Common Errors – Physical Cures

- ❑ **Omitted supporting docs;** invoice, work order, receipts, or canceled checks
- ❑ **Illegible documents/handwriting:** make sure your entire submission is clearly written and legible, this includes, receipts, invoices, work orders, and your comments/descriptions
- ❑ **Failure to note the unit # or site location:** make sure supporting invoices and work orders reference the correct unit number or site location on them
- ❑ **Pictures not showing clear evidence:** pictures should indicate the unit# or location of the finding in the picture or below the picture, and should have ample lighting and focus, otherwise the picture(s) will be rejected as support

# Common Errors - Sample

The supporting invoice or work order should use the same verbiage as the DCA finding description.

For example, your response stating “fixed railing” is not the same as stating “secured broken handrail with new bolts, functioning properly”. Be specific.

## 1- 2- 3 Apartments

123 Property Way  
Trailmix, CY 12345-4321  
Phone: [777-777-7777]  
Fax: [777-777-7770]  
[123APTS@BETTERMGT.NET](mailto:123APTS@BETTERMGT.NET)

## WORK ORDER

W.O. #: [123456]  
W.O. Date: 12/22/2010

Requested By: Contagious Courtesy  
UNIT #: abc1  
BUILDING #: abc

JOB	DATE SCHEDULED	DATE COMPLETED
Fix broken handrail	12/22/2010	12/24/2010

ITEMS	DESCRIPTION	START TIME	STOP TIME	TOTAL TIME
1	Secured broken handrail with new bolts.			
				-
				-
				-

### Other Comments or Special Instructions

Handrail is functioning properly.

I agree that all work has been performed to my satisfaction.

Signature: *Quicker Fixer Sr.*

Completed Date: 12/24/2010

Date: 12/24/2010

# Audit Cures Best Practices

- Have your own regularly scheduled site-walks/inspections, DCA recommends to do this monthly
- Educate your staff, send them to workshops
- Take good notes during the actual inspection, take your own pictures, know exactly what needs correction
- Submit your response the moment **all items are cured**, but please; only submit when **all cures repairs are completed**, do not submit in “piecemeal”

# Audit Cures Best Practices



Train your staff to spot “common findings” when they are performing a work order, this is your chance to cure items before a DCA inspection

Have a supervisor review your cure response to ensure it is clear, legible, and includes all supporting documentation

Follow through and communicate with tenants about needed and completed repairs, they are a source of information about your property



# Audit Close Letter and Filing of Form 8823

- State agencies use Form 8823 to notify the IRS of non-compliance with the requirements of IRC §42 or to fulfill other reporting requirements
- Form 8823 must be filed with the IRS within 45-days following the end of the correction period, whether or not the non-compliance has been corrected
- The IRS 8823 Audit Technique Guide can be found at:

<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Guide-for-Completing-Form-8823-Low-Income-Housing-Credit-Agencies-Report-of-Noncompliance-or-Building-Disposition>

# Industry Hot Topics



February 2015

**Presenters: Eric Edwards**

# Agenda

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- Violence Against Women Act (VAWA)
- Marijuana Use – Property Rules, GA Law, IRS, and HUD Rules
- Fair Housing implications
- Water Stewardship Act

# NO MORE



# VIOLENCE AGAINST WOMEN ACT (VAWA)

- ❑ Effective Date
  - VAWA 2013 was signed into law on March 7, 2013
- ❑ Some of the Affected Programs
  - HOME
  - LIHTC
  - USDA Rural Housing
  - 202 Elderly Supportive Housing
  - 811 Supportive Housing for People with Disabilities

For additional programs, review HUD Federal Register Vol. 78, No. 151, August 6, 2013

# VIOLENCE AGAINST WOMEN ACT (VAWA)

## □ **What Does It Cover?**

- Incident(s) of Actual or Threatened Violence:
  - Domestic Violence
  - Dating Violence
  - Stalking activity

## □ **Who Does it Cover?**

- The Victim (Your Resident)
- The Victim's Immediate Family (Children)
- The Victim's Spouse or Intimate Partner

# Domestic Violence and Fair Housing

- ❑ Women are more likely to be the victims of domestic violence, and often are not the perpetrators
- ❑ Domestic violence policies can negatively affect victims of domestic violence and are likely to be a violation of fair housing laws
- ❑ Housing providers may establish policies and procedures to screen prospective residents and to evict residents
- ❑ However, those policies could be discriminatory even when they appear neutral, and must take into account VAWA laws

# Example

- ❑ A person applied for an available unit at an apartment complex
- ❑ The person's screening report indicated that they had been involved in a domestic violence incident
- ❑ Management did not want violence or other problems associated with domestic violence at their complex
- ❑ Management has a policy of rejecting applications from prospective residents with a history of domestic violence on their screening report. Is this an example violation of the fair housing laws?



# VAWA - Tenant Selection & Screening

- ❑ When you discover a history of domestic violence during the screening process:
  - ❑ Ask the prospective resident about the circumstances
  - ❑ If the person proves they were a victim of domestic violence, a refusal to take their application could be a violation of VAWA
  - ❑ The assumption that former victims of domestic violence could present a safety concern in the future is not enough to justify a policy that rejects applicants based upon a history of domestic violence issues
  - ❑ Management's screening policies can have an adverse impact on a person based on sex/gender

# Example

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- ❑ The police were called to a rental community in response to a domestic violence incident involving a husband and wife who live in the complex
- ❑ The community has a "zero tolerance" policy for any type of violence, and has issued an eviction notice to the household. Does this policy violate fair housing laws?

# Adverse Impact

- ❑ This policy has a disproportionate adverse impact.  
Management may assert a “zero tolerance” policy for violence at the community in concern for safety of their residents;
- ❑ However, the policy may have failed to take into account the victim’s individual circumstances of domestic violence

# Options for Housing Providers

- May evict the perpetrator and allow the tenancy to continue for the **victim of domestic violence**
- May offer a **separate unit** at their community to the victim of domestic violence
- May offer the victim of domestic violence **another rental unit at a different community managed** by the same company

# Options for Housing Providers (continued)

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- May allow the victim of domestic violence to **cancel the rental agreement or lease without penalty** and move elsewhere
- The key is to work with the resident to help prevent any further harm or damages

# Sources for more information

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- Housing providers, domestic violence advocates, and fair housing agencies are working together to develop more clear guidelines for housing providers on how to manage domestic violence situations
- If you have any questions about the fair housing laws in domestic violence situations, feel free to contact your local fair housing agency

# The Water Stewardship Act

Enacted 2010 to practice conservation measures and to reduce consumption at large residential and commercial properties.

Required actions by local governments:

- ❑ **January 1, 2011**, adopt or amend local ordinances to restrict outdoor water use for landscapes
- ❑ After **July 1, 2012**, enforcement of updated plumbing code specifying:
  - ❑ High-efficiency flow specification for plumbing fixtures; toilets, urinals, and showerheads
  - ❑ Sub-meters installed in new multi-unit buildings, including residential, commercial, and light industrial facilities
    - Sub-metering of each new multi-unit residential building granted a permit for construction after July 1, 2012. Not mandated, but encouraged on existing buildings
    - Tenants in these new buildings are to be charged for water and wastewater use based on the measured usage
    - High-efficiency cooling towers in new construction.

# Marijuana Use – Property Rules, GA Law, IRS & HUD Rules



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## HUD Notice on Marijuana use in HUD Funded Properties

- ❑ December 29, 2014 - Memorandum for Marijuana in HUD funded Multifamily properties
- ❑ Marijuana is a Schedule 1 controlled substance
  - ❑ Schedule 1 includes (Heroin, LSD, Marijuana, GHB, Ecstasy, Bath Salts)
- ❑ The Controlled Substances Act makes the sale, distribution, and possession of a Schedule 1 drug a federal criminal offense
- ❑ This includes “**Medical Marijuana**”

# Individual State's Legalization of Marijuana

- Status of Legalization of Marijuana
- 23 states and the District of Columbia permit some type of legal use of Marijuana, some medical, some recreational
- DOJ published a notice of its intent not to prosecute activities that are legal under state law
- Georgia is actively considering a bill that limits Marijuana to non-smoking use and only for medicinal purposes

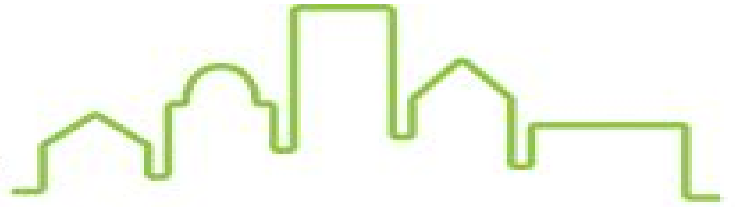
# Why Marijuana is not a “Reasonable Accommodation”

HUD General Counsel issued an opinion on January 20, 2011

- ❑ Under Section 504 and ADA, a current user of illegal drugs is not considered disabled and therefore cannot request reasonable accommodation
- ❑ If the resident has a disability, i.e., cancer and asks for a reasonable accommodation to smoke “Medical Marijuana”, a Housing Provider cannot permit residents to use an illegal controlled substance because it violates federal law
- ❑ Under FHA, disabled users of Medical Marijuana are not automatically excluded from falling within the definition of disabled
- ❑ If state law permits Medical Marijuana, federal law supersedes state law



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# Community Affairs