



**TENANT SELECTION PLAN**

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**I. POLICY ON NON-DISCRIMINATION**

Management Agent’s Policy. With respect to the treatment of applicants, the John Stewart Company, (“the Management Agent”) will not discriminate against any individual or family because of race, color, creed, national or ethnic origin or ancestry, religion, sex, sexual preference, gender identity, age, disability, military status, source of income, marital status or familial status, acquired immune deficiency syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis. No criteria will be applied or information considered pertaining to attributes of behavior that may be imputed by some to a particular group or category. All criteria shall be applied equitably and all information considered on an applicant shall be related solely to the attributes and behavior of individual members of the household as they may affect residency.

**II. PROGRAM DESCRIPTION AND POPULATION SERVED**

- A. Property Name, Program Description and Population Served. **Poinciana II (aka Poinciana Drive Apartments)** (“the Property”) is a California Tax Credit Allocation property, serving a senior population.
- B. Program Guidelines and Income Limits. Income limits based on area median income are determined by HUD and published in the Federal Register on an annual basis. Management uses HUD’s income limits to ensure that residents qualify at the targeted set-aside. The income limits are calculated using household size in relation to area median gross income (AMGI).

**III. POLICY ON PRIVACY**

- A. Federal Privacy Act. It is the policy of the Management Agent to guard the privacy of applicants as conferred by the Federal Privacy Act of 1974, and to ensure the protection of such applicants’ records maintained by the Management Agent.
- B. Non-Disclosure, Consent and Information Collection. Therefore, neither the Management Agent nor its agents or employees, shall disclose any personal information contained in its records to any person or agency unless the individual about whom information is requested shall give written consent to such disclosure. This Privacy policy in no way limits our ability to collect such information as it may be needed to determine eligibility, compute rent or determine an applicant’s suitability for tenancy.

**IV. WAITING LIST PROCEDURES FOR PROCESSING**

Applicants are referred from the Project Based Voucher wait list, managed by the Housing Programs Department (HPD) of the Housing Authority of the County of Santa Clara. All applicants from the Project Based Voucher Wait List must be age 55 years and older.

If no applicant is in the unit 30 days after HPD has been informed of the vacancy, then the property management company may fill the unit with an applicant from the site based wait list. Establishing, opening and maintaining a site based wait list is subject to approval by the Housing Authority and requires submission of an affirmative marketing plan

**Site Based Wait List**

- A. Marketing Plan. A waiting list will be established for the Property. The opening of the waiting list will be announced in a manner in accordance with the Affirmative Fair Housing Marketing Plan (AFHMP) approved by HUD, and will include multilingual print advertising and fliers (marketing materials) targeted to agencies and groups in order to reach those least likely to apply.
- B. The opening of the waiting list will be announced in a manner in accordance with the Affirmative Fair Housing Marketing Plan (AFHMP)



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- C. **Marketing Materials.** The marketing materials will include the deadline to apply, indicating the closing date for the waiting list. The waiting list will be updated on an annual basis.
- V. **Application.** Each application will be date and time stamped when received and then processed. Applications will be ranked for consideration (and units will be offered) according to the following descending order of priorities:
1. Date of completion of verification/certification process.
  2. Date of availability for move-in.
- VI. **Applicants and the Waiting List.** All applicants will be placed on the Waiting List.
- VII. **Closed Waiting List.** However, if the existing Waiting List contains so many names that the average wait for a unit is a year or more, the Property may decline to accept applications. In this case, the Waiting List is "closed."
- VIII. **WAITING LIST PRIORITY FOR PROCESSING AND SELECTION PROCEDURES**
- A. **Preferences.** (Reference HUD Handbook # 4350.3 REV-1, CHG-4, (Revised) 11/13)
- IX. **Priority of Processing. When a unit becomes available, selection will be made based upon the following priority of processing in the following order of preference:**
1. Statutory or Regulatory Preferences. As applicable to the property
  2. Internal Transfer, "Emergency". As defined below;
  3. Internal Transfer, "Medical Necessity". As defined below;
  4. Internal Transfer, "Overcrowding" or "Under-housed". As applicable to the available unit and as defined below;
  5. In-House Transfer List. As defined below.
- X. **Income Targeting Requirements.** To meet Income Targeting Requirements, the Property will rent vacancies to households whose annual income is at or below 50% of the Area Median Income.
- XI. **Reasons for Transfers. Transfers (From one unit to another type of unit within the property) may take precedence over new move-ins and may be required by management for the following reasons:**
1. Emergency. For emergency temporary relocation. (If a unit becomes uninhabitable due to a catastrophe the resident family will be given any open unit for temporary living quarters until their own unit is repaired. An "open unit" is a unit for which the keys are in the possession of the management company.);
  2. Medical Necessity. For verifiable medical necessity or to accommodate a person with a disability (i.e., wheelchair accessible unit or additional space for medical equipment). See also Section II.A.5, below;
  3. Overcrowding. To alleviate overcrowding;
  4. Under-housed. To avoid occupancy by too few people.
- XII. **In-House Transfer Procedure. Residents will be allowed or required to transfer and have priority to transfer to a vacant unit when it becomes available for the following reasons: Family size; changes in family composition; Reasonable Accommodation certified by a medical professional; need for an accessible unit.**
1. Resident Request. Resident places a telephone call to the site office or makes a personal visit to request a transfer to another unit;



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- 2. Completed Form. The resident is given a copy of the attached “Request for Transfer” form to be completed and returned to the Management Agent at the site office;
- 3. In-House Transfer List. Once the resident completes the “Request for Transfer” and submits the form to the Management Agent, the resident’s name is then placed on the In-House Transfer List along with the date and time the form was received.
- 4. Offer of a Unit When it Becomes Available. When a unit becomes available according to the bedroom size(s) requested, the next name on the In-House Transfer List by date and time of request will be offered the unit. Families will be housed in accordance with the “Housing Criteria” stated below.
- 5. Obligations for Moving Costs. Depending on the circumstances of the transfer, a tenant may be obligated to pay all costs associated with the move.

**XIII. UNIT SIZE AND OCCUPANCY STANDARDS (Reference HUD Handbook # 4350.3 REV-1, CHG-4, (Revised) 11/13, 24 CFR 5.601, 24 CFR 5.603)**

- A. Housing Criteria. An appropriately sized unit must be available within the Property. Families will be housed in accordance with the following criteria:

UNIT SIZE	MINIMUM	MAXIMUM
Studio	1	1
1-Bedroom	1	3
2-Bedroom	2	5
3-Bedroom	3	7
4-Bedroom	4	9
5-Bedroom	5	11

- XIV. **“Two Person Rule”.** No more than two persons would be required to occupy a bedroom.

- XV. **Accommodations for Children.** Accommodations for children of opposite sex will be made if requested.

**XVI. DETERMINING THE ELIGIBILITY OF STUDENTS FOR ASSISTANCE (Reference HUD Handbook # 4350.3 REV-1, CHG-4, (Revised) 11/13, Chapter 3, Section 3-13) – N/A**

**XVII. FAIR HOUSING**

- A. Compliance with Fair Housing Law. The Property will comply with all Federal, State, or local fair housing and civil rights laws and with all equal opportunity requirements set forth in HUD's administrative procedures. The Federal citations and their title (or topic) are listed below:
  - 1. 24 CFR, part 1 Title VI of the Civil Rights Act of 1964;
  - 2. 24 CFR, part 8 Section 504 of the Rehabilitation Act of 1973;
  - 3. 24 CFR, part 100 et seq Fair Housing Act;
  - 4. 24 CFR, part 146 Age Discrimination Act of 1975;
  - 5. 24 CFR 200.600 Affirmative Fair Marketing Regulations;
  - 6. 24 CFR 880.612a, 881.601, 883.701, 884.223a, 886.329a (Allows preference for occupancy by elderly families in certain Section 8 developments);
  - 7. 42 U.S.C. 13641 Title VI, Subtitle D of Housing and Community Development Act of 1992 (Sets forth criteria under which certain HUD-subsidized multifamily properties can choose to serve elderly only, or set-aside a portion of the property for elderly only);
  - 8. Uniform Federal Accessibility Standards (UFAS), effective July 11, 1988; individual copies are available from the Architectural and Transportation Barriers Compliance Board, 1331 F Street,



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NW, Suite 1000, Washington, D.C. 20004-1111, Telephone: 202-272-0080, TTY: 202-272-0082, email address: info@access-board.gov. Orders of 25 or more copies will be referred to the publisher.

- B. Compliance with the Marketing Plan. The Property will comply with the Affirmative Fair Housing Marketing Plan (AFHMP).
- C. Compliance with the Federal Privacy Act. It is the policy of the Property to guard the privacy of individuals conferred by the Federal Privacy Act of 1974, and to ensure the protection of such individuals' records maintained by the Property.
- D. Section 504 and Reasonable Accommodations. The Property will seek to identify and eliminate situations or procedures which create a barrier to equal housing opportunity for all. In accordance with Section 504 of The Rehabilitation Act of 1973, the Property will make reasonable accommodation for individuals with disabilities (applicants or residents). Such accommodations may include changes in the method of administering policies, procedures, or services. The Section 504 coordinator in this region is Mari Tustin (831) 438-5725.
- E. Consideration of Extenuating Circumstances. The Property may consider extenuating circumstances in evaluating information obtained during the screening process to assist in determining the acceptability of an applicant for tenancy. If the applicant is a person with disabilities, the Property will consider extenuating circumstances where this would be required as a matter of reasonable accommodation.

### XVIII. ELIGIBILITY FOR ASSISTANCE AND OCCUPANCY

- A. Eligibility and Statutory Requirements. In accordance with HUD requirements and per 24 CFR 5.601 and 24 CFR 5.603:
  - 1. Verifying Income. All income will be verified in writing from the income source on appropriate project income verification forms.
  - 2. Verifying Assets. All assets, including bank accounts, will be verified.
  - 3. Income Eligibility. The applicant must have an eligibility income equal to or less than the TCAC-established income limit.
- B. Live-In Aides and Screening Criteria. All applicants, any household members added at a later time and live-in-aides will be subject to the same screening criteria (excluding, for live-in-aides, those criteria described under "D. Consideration of Income and Expenses," below). In accordance with HUD regulations & owner requirements:
- C. Credit and Criminal Screening. Credit and criminal reports will be obtained for each applicant 18 years of age and over. Applicants will be denied based on failure to meet the credit and criminal criteria as outlined in Sections VI and VIII below and in the Grounds for Denial.
- D. Consideration of Income and Expenses. Net income and gross expenses will be used to determine an individual's actual ability to pay his/her monthly rent while meeting his/her other monthly obligations.
  - 1. The net income is determined by three month's of current check stubs which are to be calculated for a twelve-month period.
  - 2. All items on expenses will be determined after discussion with the applicant on a line by line basis using actual, not arbitrary, figures.
- E. Contacting Applicant Landlords. Both the current and previous landlords will be contacted for a reference concerning payment records as well as the history of complying with lease requirements and housekeeping habits.
- F. Visits to Current Residence. Visits to the applicant's current residence may be made to assess housekeeping habits.



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- G. Full-Time Students. Households consisting entirely of full-time students are not eligible for Tax Credit units unless the household is income eligible and one or more of the following exceptions applies to the household:
- All members of the household are married (they do not need to be married to each other) and are entitled to file a joint tax return.
  - The household consists of single parents(s) and their child (or children), and no one in the household is a dependent of a third party.
  - At least one member of the household receives assistance under Title IV of the Social Security Act (i.e., TANF)
  - At least one member of the household is participating in an officially sanctioned job training program such as those funded under the Workforce Investment Act (WIA).
  - At least one member of the household was formerly in foster care.

All school age children in grades K-12 are considered to be full-time students.

**XIX. CREDIT - (See also Sections IX.B and IX.C, above.)**

Applicants may be rejected for the following reasons:

1. Total unmet credit problems (including governmental tax liens in excess of \$2,500).
2. A bankruptcy (within the last three years).
3. A total of five (5) unmet credit obligations of any value.

An exception for extraordinary medical and/or student loan expenses may be permitted.

**XX. RENTAL HISTORY (See also Sections IX.B and IX.C, above.)**

Applicants may be rejected for the following reasons:

1. A judgment against an applicant obtained by the current or previous landlord.
2. An unmet obligation owed to a previous landlord.
3. The applicant must have made timely payments of the last year's rental payments.
4. Negative landlord reference.

**XXI. CRIMINAL BACKGROUND CHECK & PERSONAL HISTORY - (See also Sections IX.B and IX.C, above.)**

A. Records Check. A check will be made of criminal conviction records for all adult Applicants of the household. Reports will be obtained from local and/or state records and may also include local Police records. If the Applicant has resided in a state other than California and has a past felony conviction, a report will be required from that state or federal organization. Generally, public records of this sort are only available for the past seven (7) years. However, if information becomes known during the screening process regarding criminal activity that happened before the past seven year period which could impact the Applicant household's eligibility to live at the property, the Management Agent reserves the right to consider this information as well. Serious felony offenses and or continued and ongoing criminal activity will be grounds for rejection if such offenses involve physical violence to persons or property, domestic violence, sexual abuse, manufacturing or sale of narcotics, illegal weapons possession, any form of assault, breaking and entering, burglary or drug related criminal offenses. The nature, severity and recency of such felony offenses and/or ongoing criminal activity will be considered when reviewing the Applicant and only those potentially impacting the health, safety, security or right to peaceful enjoyment of the property of and by other residents, visitors, employees will be considered. Arrests alone will not be considered grounds for rejection, but the conduct underlying arrests may constitute such grounds if criminal activity is indicated by related arrest reports, witness statements and/or other relevant documentation.

B. Additional Reasons for Rejection. Additionally, applicants may be rejected due to:

1. Previous Eviction from Assisted Housing for Drug-Related Criminal Activity. Any household containing a member(s) that has been evicted from federally assisted housing for drug-related



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criminal activity, unless that person has successfully completed an approved, supervised drug rehabilitation program or the circumstances leading to the eviction no longer exist (household member has moved out).

- 2. Illegal Use of Drugs. A household in which any member is currently engaged in illegal use of drugs or for which the owner has reasonable cause to believe that a member’s illegal use or pattern of use of a drug may interfere with the health, safety, security or right to peaceful enjoyment of the property of and by other residents, visitors, employees.
  - 3. Reasonable Cause for Health and Safety Concern. Any household member, if there is reasonable cause to believe that a member’s behavior, from abuse or pattern of abuse of alcohol, may interfere with the health, safety, security, or peaceful enjoyment of other residents, visitors, employees and/or property.
- C. Consideration of Mitigating Factors. Consideration may be granted to Applicants with past nonviolent criminal records occurring ten or more years in the past with no further criminal record. Applicants will be provided the criminal background record and provided an opportunity to respond and to provide evidence of mitigating factors.

**XXII. GENERAL PROGRAM REQUIREMENTS**

HUD specifies that applicants be made aware of program requirements, including (but not limited to) the following:

- A. Interviews. All applicants will be interviewed by the site administrator or other representative of management. At the time of the interview, all members of the family must be in attendance. If this is not possible, a second interview to accommodate missing members will be scheduled. Documents or identification to determine family members' relationships may be requested.
- B. Agreement to Pay the Rent. The applicant must agree to pay the rent required by the formula used in the subsidy program under which the applicant will be admitted.
- C. Companion and Service Animals Policy. No animals will be allowed except animals required for physical or emotional assistance by a person who is disabled (e.g., a Seeing Eye dog or a dog for the deaf). Such an animal is not considered a pet, but will be subject to reasonable regulations.

All properties have a NO PET policy except those required to accept pets by HUD.

The following are allowed:

- 1. Companion Animals - The Fair Housing Amendments Act of 1988, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act protect the right of people with disabilities to keep emotional support animals, even when a landlord's policy explicitly prohibits pets. Because emotional support and service animals are not "pets," but rather are considered to be more like assistive aids such as wheelchairs, The Property will make an exception to its "no pet" policy so that a tenant with a disability can fully use and enjoy his or her dwelling. So long as the tenant has a letter or prescription from an appropriate professional, such as a therapist or physician, and meets the definition of a person with a disability, he or she is entitled to a reasonable accommodation that would allow an emotional support animal in the apartment.
- 2. Service Animals - Service Animals are animals required for physical or emotional assistance by a person who is disabled (e.g., a seeing-eye dog or a dog for the deaf) is not considered a pet, but will be subject to reasonable regulations.

It is a reasonable accommodation for housing providers to allow tenants with disabilities to live with a service animal in order to meet their disability-related needs. A service animal usually is defined as "any animal that is individually trained to do work or perform tasks for the benefit of a person with a disability." Fair housing laws consider “companion” animals to be a type of service animal.



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- (a) Dogs are the most common service animals, but other species are used (for example, cats or birds). Service animals may be any breed, size or weight.
  - (b) There is no legal requirement for service animals to be visibly identified (no special collar or harness needed) or to have documentation (no license, certification or identification papers needed).
  - (c) Service animals are not considered to be pets. A person with a disability uses a service animal as an auxiliary aid -- similar to the use of a cane, crutches or wheelchair. For this reason, fair housing laws require that housing providers permit the use of a service animal by an individual with a disability despite “no pet” rules.
  - (d) Pet deposits or fees cannot be charged for service animals.
  - (e) All households with pets are subject to the Companion and Service Animals Policy.
- D. Obligation to Fulfill the Terms of the Lease. All applicants must fulfill the terms of the lease (with or without 3rd party assistance), particularly concerning:
- 1. Timely payment of rent and other charges;
  - 2. Maintaining premises in safe and sanitary condition;
  - 3. Not interfering with management or quiet enjoyment of the property by others.
- E. Housing Cooperatives. Applicants for membership in housing cooperatives must be interviewed by the appropriate committee of the Board of Directors for final approval after having met all other criteria.

### XXIII. REJECTED APPLICATIONS

- A. General Guidelines and Criteria. Applicants will be rejected for any of the following:
- 1. Failure to present all members of the family at the full family interview (or some other time acceptable to management) prior to completion of Initial Certification;
  - 2. Blatant disrespect, disruptive or anti-social behavior toward management, the property or other residents exhibited by an applicant or family member any time prior to move-in (or a demonstrable history of such behavior);
  - 3. A negative landlord or other reference, encompassing failure to comply with the lease, poor payment history, poor housekeeping habits, eviction for cause; or criminal activity outlined above;
  - 4. A negative credit or criminal report (see attached “Grounds For Denial” and Sections IX and XII above);
  - 5. Falsification of any information on the application;
  - 6. Eligibility income exceeding the maximum allowed for the specific program;
  - 7. Family composition not appropriate for available bedroom size (see Section VI above);
  - 8. Failure to update application for the waiting list within specified time when notified.
  - 9. Other good cause: including, but not limited to, failure to meet any of the selection criteria in this document.
- B. Offer of an Apartment. If an applicant declines an available apartment when notified, he/she will be offered a second unit when available. If an applicant declines an apartment a second time, his/her application will be removed from the waiting list. After receiving the notification of unit availability, applicants have five days to respond to management regarding the available apartment. If there is no response, the offer will have been declined by the applicant. If there are verifiable mitigating medical reasons that prevent you from moving at the time of offer, you will receive another unit offer.





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- C. Written Notice. If an applicant is rejected, management will promptly notify the applicant in writing explaining in the notice:
  1. The specifically stated reason(s) for the rejection; and that
  2. The applicant has a right to respond to the owner in writing or request a meeting within 14 days to dispute the rejection;
  3. Persons with disabilities have the right to request reasonable accommodations to participate in the informal hearing process;
  4. Any meeting with the applicant to discuss the applicant’s rejection must be conducted by a member of the owner’s staff who was not involved in the initial decision to deny admission or assistance;
  5. Prior to making a final decision to reject an applicant, the Property will consider mitigating circumstances and evaluate reasonable accommodations and/or structural modifications which might make rejection unnecessary;
  6. Within five (5) business days of the owner response or meeting, the owner must advise the applicant in writing of the final decision on eligibility;
  7. If an applicant feels they have been discriminated against based on a disability they may contact the local 504 Coordinator, Mari Tustin (831) 438-5725.

**XXIV. VIOLENCE AGAINST WOMEN ACT**

- A. Background. The Violence Against Women and Justice Department Reauthorization Act of 2005 protects residents who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them. In accordance with the Violence Against Women Act (VAWA) Management will not penalize victims of domestic violence, stalking, dating violence, or rape.
- B. Key Points. Some key points provided in the Act include:
  1. A potential resident who certifies they were the victim of domestic violence may be allowed to be admitted even with poor credit and poor landlord evaluations if he/she can show those negative factors were caused by domestic violence.
  2. It assured that victims of domestic violence, sexual assault, etc., can have access to the criminal justice system without facing eviction.
  3. Where someone is abusive to other members of the household, only the abuser may be evicted. Furthermore, the standards for eviction due to imminent threat have been strengthened.
  4. Residents in assisted housing who face violence may be allowed early lease termination for a matter of safety.
  5. Victims must certify their status as victims and that the incident in question was a bona fide incident of domestic violence by presenting appropriate documentation to the Property Manager. Nothing prevents a victim who has committed a crime or violated a lease from being denied, evicted or terminated.

**I have read and received a copy of the Rincon Gardens Tenant Selection Criteria.**

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date



**Eklund II – Poinciana Drive Apartments**

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Date