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Nikki Boatwright

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**BEFORE THE TENNESSEE  
HOUSING DEVELOPMENT AGENCY**

**IN THE MATTER OF:**

**NIKKI BOATWRIGHT**

**DOCKET NO: 32.00-119828J**

**ORDER**

This contested administrative case was heard in Knoxville, Tennessee, on April 10, 2013, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Tennessee Housing Development Agency (“THDA” or “the Agency”). Mr. Bruce Balcom, General Counsel for THDA, represented the Petitioner. Nikki Boatwright, the Respondent, was present and proceeded on her own behalf.

The subject of the proceeding was the proposed termination of the Respondent’s rental assistance through the Housing Choice Voucher Program (Section 8) for the alleged criminal acts of Respondent. After consideration of the record, it is ordered that the Respondent’s Section 8 rental assistance should be terminated, and THDA’s proposed termination is UPHELD. This decision is based upon the following findings of facts and conclusions of law.

**FINDINGS OF FACT**

1. The Respondent has been receiving Section 8 rental assistance. On or about July 25, 2012, Respondent was charged with violation of a drug free school zone,

which is a class B Felony. The charge was eventually reduced to possession of a controlled substance charge, a class C felony.

2. By letter dated January 10, 2013, Julie Burnette, a hearing and complaints officer with THDA, notified Respondent that she was upholding the decision to terminate her assistance because Respondent had committed criminal or drug activity that threatens the health, safety, or peaceful enjoyment of the premises.

3. Respondent appealed the termination.

4. At the hearing on April 10<sup>th</sup>, Respondent introduced a letter from a Knox County Public Defender which stated that Respondent would plead guilty to a class C felony as part of a plea agreement.

### **CONCLUSIONS OF LAW**

1. The Section 8, Tenant Based Assistance, Housing Choice Voucher Program provides that “during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises..., shall be cause for termination of tenancy.... 42 U.S.C.§1437(d)(1)(B)(iii).

2. Code of Federal Regulations, 24 CFR 982.551(1) states, in relevant part, that a participant in Section 8, “may not engage in...violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.”

3. Pursuant to 24 CFR 982.553(b) THDA (the PHA in the instant case) has promulgated standards in its Administrative Plan, Chapter 10, page 6, for termination due to criminal behavior:

HUD regulations allow PHAs local discretion in establishing additional grounds for termination when the PHA determines that any household member is currently engaged in certain criminal activities. Termination of assistance will result if THDA receives information during the normal process of recertifying eligibility that shows there is a record of drug-related criminal activity, severe alcohol abuse, violent criminal activity or other criminal activity that is a threat to the health and safety of the neighborhood. The family will be terminated if any adult household member has a criminal record that meets one of the following conditions:

1. Any household member has been convicted of a felony drug-related, alcohol related, violent criminal activity or other criminal activity in the past twelve (12) months;
2. Any household member has been convicted of two (2) or more misdemeanor drug-related, alcohol-related, violent criminal or other criminal acts in the past twelve (12) months;
3. Any household member has three (3) or more convictions for a misdemeanor or felony drug-related, alcohol-related, violent criminal activity or other criminal activity, one of which is less than three (3) years (36 months) old;
4. Any household member has one or more convictions for a felony sex offense in the past ten (10) years or any conviction (felony or misdemeanor) of a sex offense involving a minor;
5. Any household member has been arrested two (2) or more times during the past six (6) months or three (3) or more times during the past twelve (12) months

(felony or misdemeanor), for a drug-related, alcohol-related, violent criminal activity or other criminal activity; or

6. Any household member, guest or other person under the tenant's control is arrested for or convicted of a drug-related or violent criminal activity that allegedly occurred in the assisted unit at any time during the family's program participation (when the criminal activity is a serious lease violation).

4. THDA's Administrative Plan lists six specific criteria for termination due to criminal activities. Specifically, criteria #1 requires a felony conviction. As is evidenced by the terms of the agreement from the Knox County Public Defender, Respondent has been convicted of a felony. Accordingly, THDA's proposed termination of Respondent's rental assistance is appropriate.

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For the foregoing reasons, the decision of the Tennessee Housing Development Agency to terminate Ms. Boatwright's Housing Voucher is UPHELD.

This Order entered and effective this 19 day of April, 2013

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Rob Wilson  
Administrative Judge

