

# RRHA Update

MARCH 2012



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OF TEXAS

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## FROM THE PRESIDENT'S DESK

My new year's resolutions are much like the movie Groundhog Day. The year starts with a firm resolution or wish list that I vow to stick to or complete only to find they have to be repeated because my vows weren't so resolute or my wish list contained too much fantasy.

I kicked off 2012 by attending CARH's Mid-Year Meeting in New Orleans to try and keep up with the dizzying array of issues that we face in the affordable housing industry. I came away from the meeting with a 2012 wish list that I hope has better success than my personal affairs.



### ➤ No Merger of RHS Programs Into HUD

You might be surprised by how divided the industry is on this issue. A CARH poll had 54.1% opposing a merger and 45.9% favoring a merger. 97% of the respondents were 515 owner/developers. A fair number of folks think HUD is the future, but I fear that rural housing will become buried and become an afterthought in the existing HUD structure.

### ➤ Emphasize Preservation Resources

LIHTC is our primary source of preservation funds. There was considerable discussion at the CARH meeting about tax code reform and whether the LIHTC has a future. Regardless of the future of the LIHTC, I would like to see a greater emphasis on a Section 515 direct funding preservation program or a more robust MPR program, or even a reprise of the tax credit exchange program for our industry. Furthermore, speedier transfers or approvals would be a great help to getting these resources to the projects to benefit the properties and our tenants.

*continued on page 2*

**RRHA'S 34TH  
ANNUAL CONVENTION  
&  
TRADE SHOW**

**HYATT REGENCY  
ON THE RIVERWALK  
SAN ANTONIO**

**JULY 24-27, 2012**



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**PRESIDENT'S MESSAGE, *continued from page 1*****➤ Continue RA Funding**

Rental Assistance is a high risk target for budget reductions and many rural properties cannot survive without this operating subsidy. The primary target will be troubled properties and if the troubled property is taken out of service, the RA is lost and the State Office cannot reallocate the RA to other properties. I would like to see Congress continue to fund RA and give greater flexibility to the states to reallocate RA.

**➤ True Federal and State Program Alignment**

A Rental Policy Working Group consisting of representatives from RD, HUD, and Treasury, have issued proposals to streamline and better align federal rental policies with respect to physical inspections, income and financial reporting, fair housing compliance, and appraisal, market study, and CNA reports. Consistently inconsistent is the current state of compliance oversight. I'm all for a system that aligns programs that lessens our compliance and administrative burdens and yields consistent expectations and results.

I took time away from the CARH Mid-Year Meeting to host Ms. Tammye Trevino, USDA-RD Administrator, and Mr. Bryan Hooper, Deputy Administrator for MFH, on a site visit to a 72-unit RD financed property that is undergoing a substantial rehabilitation with Go Zone LIHTC. Louisiana RD officials joined us, together with Ben Farmer, Pat Barbolla and Gary Kersch who attended the CARH meeting. We provided the lunch and King Cake and Tammye and Brian served up a dose of budget and tax issues that we face in the future with no clear roadmap from Congress.

I also attended the State Association Committee meeting to see what other housing affiliates are doing to deliver services to their members and convey their industry concerns. I came away from the meeting convinced that a rising tide lifts all boats and we need to join with other state affiliates for our voice to be heard in Washington DC. CARH is the most logical choice. I have invited Ms. Colleen Fisher, the CARH Executive Director, to come to our April board meeting so we can explore whether an affiliation by our Association with CARH is a good fit.

I have resolved to use my best efforts to see that this wish list is fulfilled. We'll see if 2012 will be a Groundhog Day rerun.

— *Murray A. Calhoun*



## SPOTLIGHT ... NEW BOARD MEMBER

### NANCY COBB

RRHA of Texas proudly welcomes Nancy Cobb as one of our newest members of the Board of Directors. Nancy was elected by the Board at our annual retreat recently held in New Orleans. Ms. Cobb has been involved in Rural Rental Housing Association since 1986, while working with Patrick Barbolla of Fountainhead Management Inc. as the office manager and comptroller. She says she has gained a wealth of knowledge regarding the business of apartment management from him and greatly appreciates it, and hopefully, she puts it to good use by interfacing with her managers and the tenants. Nancy really enjoys the challenges that the industry brings her way each and every day.



Ms. Cobb has worked in every aspect of the business from the office and it's clerical duties, to the field in being a manager, training managers, motivating managers, and being there to help in any way when disasters strike.

Nancy and her husband have 3 beautiful daughters, 8 grandchildren, 1 great grandson and another great grandchild on the way, due in September. Both Nancy and her husband love to travel as much as possible in their motor home.

Nancy says she is looking forward to this next year and all the new challenges the year will bring being a new board member, and is willing to be of service in any area that she is needed most within the Association.

## RRHA OF TEXAS UPCOMING EVENTS

### MARCH 20-21, 2012

Rental Occupancy Management | 3560 Seminar  
Holiday Inn Express & Suites  
McAllen, Texas

### MARCH 22-23, 2012

Interactive Property Management Seminar  
Holiday Inn Express & Suites  
McAllen, Texas

### APRIL 17-18, 2012

Rental Occupancy Management | 3560 Seminar  
Hilton Garden Inn  
Temple, Texas

### APRIL 19-20, 2012

Fundamentals of Property Mgmt. Seminar  
Hilton Garden Inn  
Temple, Texas

### APRIL 25, 2012

Convention Committee Meeting  
Omni Mandalay Hotel  
Irving, Texas

### APRIL 26, 2012

Board of Directors Meeting  
Omni Mandalay Hotel  
Irving, Texas

### JULY 24-27, 2012

34th Annual Convention & Trade Show  
Hyatt Regency on the RiverWalk  
San Antonio, Texas



## PRESERVATION OF USDA'S SECTION 515 PORTFOLIO

*By: Carlton Jarratt, Finance & Loan Analyst, Multifamily Housing Preservation & Direct Loan Division, USDA Rural Housing Service*

*Mike Steininger, Director [Acting], Preservation & Direct Loan Division, USDA Rural Housing Service*

Preservation of USDA's Section 515 portfolio has become a top priority. A majority of these properties were built in the late 1970's to early 1990's. The properties are located in rural America and are small compared to typical housing complexes. In 2003, a Comprehensive Property Assessment Study was completed on a sample of 30% of the portfolio. The results of the study concluded that the portfolio was aging and resources were needed to preserve the existing housing. In response to these findings, the agency created the Multi-Family Preservation Revitalization program (MPR). The purpose behind this program was to provide for the preservation, rehabilitation, and modernization of USDA's multifamily housing through the use of flexible funding tools. These tools include: deferment of existing debt to help fund reserves or reduce rents, and the use of soft second loans, grants, additional 0% loans and 515 1% loans to help finance necessary renovations. Some, or all, of these tools are used in these deals to accomplish the task of revitalization, and third party funds (such as Low Income Housing Tax Credits) are frequently included in the preservation process.

The program has been in the demonstration phase since FY2005. The Administration is asking Congress for legislation to make the program permanent.

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## UPDATE—HUD'S PBCA CONTRACT

*By HUD Contract Administrator, Southwest Housing Compliance Corporation*

We reported to you on the pending status of the rebid of the Performance Based Contract Administrator (PBCA) contracts in the October 2011 RRHA of Texas "**Update**" newsletter. The news from HUD is that they will release the new rebid very soon.

Here is an update on how events will unfold.

Day 1 HUD release of a Notice of Funds Availability (NOFA), which is the rebid of the PBCA contract

Day 60 All proposal responses due to HUD

Day 120 HUD announces awards of new PBCA contracts

Day 210 New PBCA contract in effect

Under this scenario, if HUD releases the NOFA in early March, 2012, awards for the new contracts will be announced in early July and the new contracts will go into effect in October 2012. The dates on this are approximate; we anticipate HUD will try to schedule the new contracts to go into effect on October 1, 2012.

At this time, SHCC continues to work as your PBCA under a previously extended contract. We are looking forward to the release of the NOFA, and new contract awards that will include resuming the annual Management Reviews.

Once the NOFA is released and the rebid period is underway, we will send out a ListServ and post updated information on our website. Please feel free to contact us with any questions.

## TEXAS USDA RURAL DEVELOPMENT

*By: Jonathan Bell, Housing Specialist, Texas USDA Rural Development*

*John Kirchhoff, Acting Housing Programs Director, Texas USDA Rural Development*

Temple, Texas - USDA Rural Development has undergone many changes over the past year, both in program delivery and in personnel. At the beginning of the new year, the Agency offered enhanced retirement packages to eligible employees, which many accepted. As a result, there are now a number of employees you may have known and worked with in the past that are no longer with the Agency. Rural Development looks forward to re-establishing relationships with those who have historically worked with the Agency and we look forward to forming new, rewarding partnerships. Please review a copy of our updated office and employee directory on our website (<http://www.rurdev.usda.gov/tXHome.html>) as many people have shifted locations and job descriptions.

As of October 1, 2011, Rural Development made the decision to decentralize the Multi-Family Housing (MFH) servicing issues such as review/approval of Affirmative Fair Housing Plans (AFHMP), management plans, management certifications, as well as posting and reviewing the annual financial information which consists of audits, actual budgets, and balance sheets which are now the responsibility of the local servicing office. Prior to decentralization the servicing actions were performed in a Centralized Servicing Center in the State Office. As we move forward in MFH Programs we are placing great emphasis on improving our overall portfolio. This means we will be looking closely at properties that are currently not in compliance. Rural Development has implemented an initiative to perform more field visits and inspections, and to issue the applicable servicing letters in order to bring properties into compliance. Owners need to be aware of this and work with their local servicing office to satisfy any outstanding findings or any compliance issues.

Rural Development is also gaining momentum in the 538 Guaranteed Multi-Family Housing Program. The 2012 Notice of Funding Availability (NOFA) was published February 6, 2012 and we are receiving a significant amount of interest in the program. Be sure to read the NOFA carefully as there have been some noteworthy changes as compared to last year's 538 NOFA. Rural Development is looking forward to working with our current partners and also looking forward to forming new partnerships as we all work together to improve housing opportunities and the quality of life in rural Texas.

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## SMOKE ALARMS and FIRE EXTINGUISHERS—UPDATED REQUIREMENTS

*By Patrick Barbolla, Fountainhead Companies*

The law regarding apartment smoke alarms has recently changed. Although most apartment properties have until January 1, 2013 to comply with the installation of additional smoke alarms, the best approach is to start early and review the apartment complex and, if any additional smoke alarms are needed, initiate action to comply. The general law requires that, by January 1, 2013, a smoke alarm must be installed in every bedroom and all halls or corridors leading to multiple bedrooms. The subtleties are only in the power source of smoke alarms based on the apartment's construction date. The law also provides some protections from local authorities requiring expensive retrofit to modify the power source for smoke alarms.

### **SMOKE ALARM INSTALLATION**

The state law requires at least one smoke alarm in each separate bedroom and, if multiple bedrooms are served by the same corridor, at least one smoke alarm must be installed in the corridor in the immediate vicinity of the bedrooms. If the apartment has multiple levels, at least one smoke alarm must be located on each level. If a smoke alarm is located on a ceiling, it must be no closer than 6 inches to a wall. If located on a wall, then it must be no closer than 6 inches and no farther than 12 inches from the ceiling. Both of the required placements may be modified if, and only if, located in accordance with the manufacturer's installation instruction. The smoke alarms may be powered by battery or alternating current as required by local ordinance. Many cities are now requiring that all the smoke alarms be interconnected so that if one alarm in an apartment is tripped, then all smoke alarms are tripped. But the only manner to obtain this result is to have the smoke alarms wired together – something that is not possible with solely battery operated alarms. Thus, many local ordinances are requiring that the smoke alarms be hard wired and interconnected. Interconnected all smoke alarms is easy to accomplish in new construction or substantial rehabilitation, but is somewhat more troubling for existing properties. The law provides limited protection from the local imposition of the costly interconnection requirements.

*continued on page 10*

## UTILITY ALLOWANCE DECREASES AND RESIDENT COMMENT REQUIREMENTS

*By HUD Contract Administrator, Southwest Housing Compliance Corporation*

In recent months, Southwest Housing Compliance Corporation [SHCC] has been processing an unusually large number of decreases to Utility Allowances (UA). Because UA decreases have historically been rare, many owners are not aware of the special procedures that must be followed when a UA is being reduced. The information below provides details on exactly what is required in these cases. If you have any questions, please contact your SHCC Financial Analyst. The forms referred to below are available at SHCC's website, [www.shccnt.org](http://www.shccnt.org).

In the event of a UA decrease, residents must receive two notices. The first resident notice is to advise them of their right to comment on the Utility Allowance decrease during a 30-day comment period. This must be conducted in form and manner required by 24 CFR 245.410 and 24 CFR 245.320. SHCC has created a sample [notice](#) that you may use as a template to advise residents of their right to comment. Please include a copy of the notice when you submit your Utility Allowance analysis. At the end of the 30-day comment period, you must provide us with the [certification of your compliance with the tenant comment procedures](#) along with any resident comments you have received.

We understand that the tenant comment period is also a USDA requirement. If you completed this process as part of your submission to USDA, you do not need to do it again for SHCC. However, please provide a copy of the tenant notice when you submit your analysis to SHCC.

The second resident notice serves as the notice of an increase in the tenant portion of the rent that resulted from the UA decrease. SHCC has created a [template](#) you may use for this purpose; however, this format is not required. The required elements are:

1. Date (must be 30 days in advance of effective date of rent change)
2. State the paragraph of the lease pertaining to rent changes (Paragraph 3 of the Family Lease and Paragraph 5 of the 202 Lease)
3. Effective date of rent change
4. New tenant portion of the rent
5. Reasons for the change in rent
6. Advise the resident that they may meet with the Landlord to discuss the rent change
7. Section 504 Language

You will be asked to provide a copy of this notice when you submit the monthly voucher that implements the UA decrease. ***Please note that failure to provide residents with this notice, 30 days before the UA effective date, will result in the owner having to cover the difference in the UA for the period before the residents were properly notified.***

The 6 most important words: "I admit I made a mistake"

The 5 most important words: "You did a good job"

The 4 most important words: "What is your opinion?"

The 3 most important words: "If you please"

The 2 most important words: "Thank you!"

The 1 most important word: "WE"

The least important word: "I"

Attention Leasing Agents! We make  
your job easier!



My Lightbulb Moment:  
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Playing more.**



Quick Easy Set Up. Low Deposits. Personal Customer  
Care. We call you with account information.

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361-288-2320

## RULE CHANGE FOR CALCULATING STUDENT INCOME

*By Danna Hoover, Hamilton Valley Management, Inc.*

In January 2007 USDA published a letter changing the way we calculate student income and this letter went on to say that households in which the tenant or co-tenant is a student and living independently from their parents (these rules do not apply to a student that is living with his/her parents) must meet additional eligibility restrictions in order to receive rental assistance. Those rules have been reversed or clarified by USDA letter dated November 30<sup>th</sup> 2011. You can find a copy of this letter on the RRHA website. For the purpose of determining student income, this letter takes us back to the rules as written in the HB-2-3560 which require all financial assistance be excluded from household income IF it is paid directly to the student or to the financial institution, unless the household is receiving assistance via a section 8 program.

**EXCEPTION:** [HB-3560 Chapter 6, Attachment 6A, paragraph B,9](#) *“For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.”*

### STUDENT ELIGIBILITY FOR RENTAL ASSISTANCE

The same January 2007 letter created additional eligibility requirements for students to receive rental assistance. The latest letter (November 2011) clarified that these rules are now only to be applied to households receiving Section 8 assistance. These rules are not in the HB-2-3560 handbook, so here they are:

#### **24 CFR 5.612 Restrictions on assistance to students enrolled in an institution of higher education.**

No assistance shall be provided under section 8 of the 1937 Act to any individual who:

- (a) Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
- (b) Is under 24 years of age;
- (c) Is not a veteran of the United States military;
- (d) Is unmarried;
- (e) Does not have a dependent child;
- (f) Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005; and
- (g) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

**Note:** The only HUD assistance that I am personally aware of that is provided by a USDA 515 property would be if that property had a project based HUD Section 8 contract. If you have a household that receives assistance via a Section 8 voucher, it would be up to the agency administering the voucher to determine the appropriate amount of assistance the household is eligible for.

**Note:** Please be aware that if your property is participating in the Housing Tax Credit program, these rules do not affect that programs eligibility criteria for “full-time” students.

## APRIL IS FAIR HOUSING MONTH EXPANDING CHOICE IS THE RIGHT CHOICE

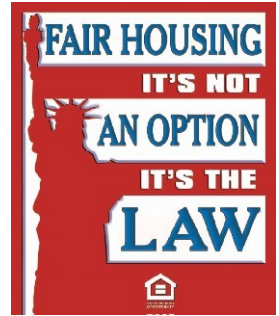
*By Gordon Anderson, Public Information Officer, Texas Department of Housing & Community Affairs*

With no Peanuts television special or marketing blitz from Hallmark to remind us, the fact that April is Fair Housing Month can almost sneak up on you.

The fact that too many Texans continue to be denied housing choice every day should sneak up on no one. It is an undeniable truth. It's easy to imagine the most obvious abuses: a real estate salesperson steering a minority family away from certain neighborhoods, or a lender denying the same family a standard home mortgage at a competitive interest rate. But what does the Act hold for those who own and maintain subsidized affordable rental housing? This should be news to no one, but the federal Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings and in other housing-related transactions based on race, color, national origin, religion, sex, disability, or familial status.

Some of the most costly violations of the Act relate to multifamily properties that are not accessible for persons with disabilities as required by law. This means doors must be sufficiently wide to allow passage by persons in wheelchairs, and light switches, electrical outlets, thermostats, and other environmental controls must be in accessible locations, along with many other accessibility features.

It is also illegal to falsely deny that a rental unit is available or refuse to show a vacant unit to anyone simply based on their race, color, national origin, religion, sex, disability, or familial status. There are multiple facets to the Fair Housing Act and anyone who owns or maintains subsidized rental housing should be familiar with it to ensure they remain in compliance. But don't wait until you show that next unit or plan out your next rehabilitation to do so. Fair housing violations – like Fair Housing Month – can sneak up on you before you know it. Follow us at: [Facebook.com/TDHCA](https://www.facebook.com/TDHCA) and [Twitter.com/TDHCA](https://twitter.com/TDHCA)



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## SHOULD YOU CALL A PUBLIC INSURANCE ADJUSTER?

*By Andy Bruce, South Wind Public Adjusters, Inc.*

Insurance policies are very complex documents and are not very easy to understand, many of them have certain limits that increase or decrease depending on the total amount of your losses – and each coverage area can be different. Perhaps you simply do not have sufficient time to document and determine the full value of your claim. Some people try to handle the adjustment process on their own, and quickly learn there are not enough hours in the day to gather all information required to prove your claim.

If you do experience a major disaster, it might be a good idea to immediately talk to a Public Adjuster to get a general overview of what your options might be. Remember, a Public Adjuster works for you, the policy holder, not the insurance company. A good Public Adjuster will help you successfully work through the highly stressful period following a loss. This usually is a difficult time for individuals and businesses, especially for someone who has never experienced a disaster or had to file a claim with their insurance company. A Public Adjuster can take those major headaches away and let you get back to your home life or running your business, and is the only type of adjuster qualified to represent the insured on a first party property claim.

Most legitimate Public Insurance Adjusters fees range between 5% to 15% with an average of around 10%. Some Public Adjusters may charge higher fees on smaller claims or when hired midway through the claim process. If a Public Adjuster is hired to pursue the last few dollars of a claim, they will likely seek a larger percentage since they have a significant uphill battle to overcome.



## WHEN TO USE (OR NOT USE) A RESTORATION COMPANY TO CLEAN UP A WATER SPILL

*By Danna Hoover, Vice President, Hamilton Valley Management, Inc.*

Recently we had the misfortune of having a water leak at one of our properties. Naturally, it occurred at night and on a weekend. The residents contacted the property manager by calling the emergency contact number on the office door (that's a good thing). When the manager got to the property she found a very bad situation. Hundreds of gallons of water soaked into two different apartment units. The property manager, being fairly new on the job, reacted the best way she knew how and contacted a local carpet company that takes care of her carpets and asked if they could help. It seemed like a good idea at the time, but when it was all said and done, the amount paid to the carpet/restoration company would have been enough to purchase new flooring in both apartments.

In retrospect, the manager probably should not have contracted with an outside company, but I am NOT saying you should always avoid using a restoration company. Most reputable contract carpet cleaning companies charge a flat rate for base water extractions. But, they also generally will charge night or weekend surcharge for after hours calls. If structural drying is necessary, the company should be able to give you estimates up front for equipment/labor costs for fans, dehumidifiers, coring baseboards to speed up drying, etc.

There are times when the services of a restoration company are both necessary and cost effective. Restoration companies are available to help property owners deal with the damage of a flood, fire, or other abnormal occurrence that is too extensive to handle effectively with in-house staff. For example, anytime there is "black water" (sewage or contaminated water); if the unit(s) affected are stacked and water has penetrated the structure (sub-floor above to ceiling below); anytime water has sat long enough that the possibility for "advanced mildew growth" to become something more invasive, or if there is something like a water heater explosion that will most likely require some sort of restoration to the unit - - having input from a qualified restoration or structural drying company is recommended. So, unfortunately the day will come when a restoration company is most likely needed, but the important thing to remember is the decision to contract with a restoration company should only be made with the approval of your supervisor or owner. You should establish (and make sure your staff knows) what the "not to exceed approval authorization" is for your property. (i.e. up to \$200 for emergency services can be approved at the site level, otherwise, owner or management level authorization is required). There should never be a charge for an estimate from a reputable contractor.

The good news is that with a little preparation you can save your property a lot of money and provide a better service to your residents when a water event occurs if you do a little preparation. Here's how you can prepare:

- 1) Post emergency contact information on the office door and make sure your residents know it's there.
- 2) Have the basic equipment on hand to handle small to mid-size water spills:
  - 12—16 gallon Wet/Dry Vacuum to remove water
  - 3—4 box fans
  - Several bricks to set furniture on
- 3) Know where your water cut-off valves are.

What to do if a water event occurs:

- 1) Get the water stopped! Start first in the unit affected. If that doesn't work, then look for a building cut-off valve and finally, if all else fails, call your utility company and ask them to shut off the water to the area that is affected.
- 2) Once the water is stopped, get personal items up off the floor and get furniture out of the apartment or up on bricks. (If the residents are not present, be very careful with their personal belongings and be very careful to keep the area secure.)
- 3) If you have carpet with pad underneath, then you will need to remove the carpet and pad and it probably will not be able to be used again. Glue down carpet on concrete can generally be left in place.
- 4) Remove as much water as you can with the wet/dry vacuum. You will need to go over the carpeted areas several times.
- 5) Turn on the air conditioner (to slow down mildew) and place several box fans to circulate air. Explain to the residents that the noise of the fans (or cost of the electricity to utilize them) is very minor compared to the possible damage to their belongings, or the unit, if the air is not circulated properly.
- 6) After the floor is dry, you will probably want to contact a carpet cleaning company to clean your carpets.

**SMOKE ALARMS and FIRE EXTINGUISHERS—UPDATED REQUIREMENTS**, *continued from page 5*

For properties constructed before September 1, 1987, if smoke alarms powered by battery were installed in compliance with the operative local standard, then the law prohibits a local ordinance from requiring the installation of smoke alarms operating on alternating current unless:

- (1) the unit's interior is repaired, remodeled, or rebuilt at a projected cost of more than \$5,000 and either (a) the repair, remodeling, or rebuilding results in the removal of interior walls or ceiling finishes exposing the structure, or (b) the interior of the unit provides access for building wiring through the attic, crawl space, or basement without the removal of interior walls or ceiling finishes; **or**
- (2) an addition costing over \$5,000 occurs to the unit, **or**
- (3) a smoke alarm powered by alternating current was actually installed in the unit at any time prior to September 1, 1987, **or**
- (4) a smoke alarm powered by alternating current was required by city ordinance at the time of initial construction of the apartment.

For an apartment first occupied before September 1, 2011, or a certificate of occupancy was issued before that date, a smoke alarm may be battery operated and is not required to be interconnected with other smoke alarms, except a smoke alarm that was in place on the date the apartment was first occupied must comply with the residential building code that applied to the apartment on the date of occupancy. Thus, if the original smoke alarms in an apartment first occupied before September 1, 2011 was powered by alternating current and was interconnected with other smoke alarms, then it must be replaced with the same – one can not replace a hard wired smoke alarm with a non interconnected smoke alarm.

**SMOKE ALARM TESTING, INSPECTION AND REPAIR**

The landlord is required to inspect and test all smoke alarms in an apartment is in good working order at the beginning of the tenant's possession. The move in condition form should be documented and signed indicating that all smoke alarms have been tested prior to the tenant's occupancy. State law does not require the owner to inspect smoke alarms during a tenant's possession unless the tenant requests an inspection or gives notice of a malfunction. State law recognizes that tenants are adults and should bear some responsibility for the care of the apartment. However, if your property is subject to monitoring from the Rural Housing Service, HUD or the Texas Department of Housing and Community Affairs, an inoperative smoke alarm is blamed on the owner regardless of Texas law removing the inspection requirement from the apartment owner or manager. Thus, it is advisable to test the smoke alarms every time a manager or maintenance person enters the apartments.

Any malfunctioning smoke alarms needs to be repaired immediately as a practical matter although state law gives the owner's seven days to repair it after the resident's notice of malfunction. If the malfunction is caused by resident or any guests thereof, then the property is allowed to charge the tenant for the damage.

**FIRE EXTINGUISHERS**

There is no statewide requirement for installing individual fire extinguishers in apartment. However, if the property elects to provide apartment fire extinguishers, the property is under a duty to properly inspect the fire extinguisher prior to the tenant's occupancy and upon written request of the resident. The inspection is to involve making sure the fire extinguisher is actually located in the apartment and, then checking to fire extinguisher gauge or pressure indicator to insure the fire extinguisher contains the correct pressure reading. The fire extinguisher is to be replaced by the owner if it is found to be not working upon inspection, fails the correct pressure test or upon a resident stating that resident used the fire extinguisher for a legitimate purpose. If a resident damages or removes a fire extinguisher, then the owner may charge the resident for repair or replacement.

In summary, all properties must have smoke alarms in every bedroom and in a hall leading to multiple bedrooms by January 1, 2013. Be aware of the \$5,000 level when considering interior work involving wall or ceiling repairs and check for the existence of a city ordinance that requires hard wired and interconnected smoke alarms. Remember to always inspect smoke alarms every time someone enters a resident's apartment – it is amazing the number of residents that disable smoke alarms. Do not allow a resident to place your property in danger by disarming smoke alarms.

## RRHA OF TEXAS CONVENTION PLANS

The 2012 RRHA of Texas Annual Convention & Trade show will be held July 24-27, 2012 at the Hyatt Regency on the RiverWalk in San Antonio. Plans for the convention are shaping up to be another great meeting. Without a doubt, RRHA's Annual Convention and Trade Show will be...

**AFFORDABLE** . . . only \$250 for 2 full days of educational opportunities to give you a professional edge, a unique trade show to heighten your awareness of products/services available, and social functions to allow networking among peers and relaxing with friends.

**EDUCATIONAL** . . . with personally enriching, informative sessions presented by professionals in our industry.

**INFORMATIVE** . . . with exhibit booths of products, supplies and services important to apartment owners and managers.

### TUESDAY | JULY 24

➤ **GOLF** | The Quarry Golf Club | The Quarry is recognized throughout the country for its unique setting and design. The front nine plays in a links-style format and features rolling hills, native grasses, and immaculate greens. The back nine lays out in a 100 year old quarry pit. With elevated tee boxes and shots that will fly over large expanses, you will definitely love your experience at this course. After a day at The Quarry Golf Club in San Antonio, you will certainly feel like you played one of the most unique and enjoyable rounds of golf in your life. Come golf with us in San Antonio and remember, The Quarry rocks!

➤ **SPORTING CLAYS HUNT** | Location to be announced

➤ **REGISTRATION** | 2:00 p.m.—4:00 p.m. | This year—in order to allow individuals to take advantage of the things to do and see in San Antonio, we do not have any structured activity planned for after 4:00 p.m. on this day.

### WEDNESDAY | JULY 25

After a long day of educational seminars, Wednesday night's activity is back by popular demand . . . **ROTEL AND THE HOT TOMATOES** . . . They combine world-class vocals and musicianship, stunning costumes, precision choreography, a "blast from the past" repertoire, and hilarious comedy into a unique, dynamic, and exciting show that never fails to leave audiences wanting more. **ROTEL AND THE HOT TOMATOES** will make you "bop 'til you drop". Recently named as one of the top ten party bands in the United States by Harper's Bazaar magazine, their show not only captures the authentic sounds of the 50's, 60's, 70's and 80's, but the look, feel, and fun as well. *There will definitely be something for everyone!*

### THURSDAY | JULY 26

On the last night of the convention, following our reception, we will welcome John King, professional singer and piano player. Mr. King has over 15 years experience performing sing-along music, including a wide variety of music selection and is able to perform most song requests. He plays regularly at Pete's Dueling Piano Bar in Austin and will bring some of the same material to perform for us as we close out our convention. San Antonio is not only the "hottest" place to be in July, but this promises to be the "coolest" site for a fun-filled evening. *So come, kick-back and jam to the cool tunes of John King.*

We fully expect that this year's convention will be one of the most entertaining and educationally beneficial presentations that we have ever had available, but in order to make it truly special, we need you. You make RRHA what it is. So, come on to San Antonio, join us for some fun and education, and I promise you will be glad you did. More details coming soon.

RRHA of Texas **UPDATE** is a quarterly publication devoted to a variety of topics of interest to our members. The views and analyses presented herein do not necessarily represent the policies or the endorsement of the Rural Rental Housing Association of Texas, Inc. Articles containing legal analyses or opinions are intended only as a discussion and overview of the topics presented. Such articles are not intended to be a comprehensive legal analysis of every aspect of the topics discussed. Due to the general nature of the discussions provided, this information may not apply in each and every fact situation and should not be acted upon without specific legal advice based on the facts in a particular case.

If you have an idea or article for our publication, please forward it to Royce Ann Wiggins at RRHA of Texas, 417-C West Central, Temple, Texas 76501, or via e-mail at [office@rrhatx.com](mailto:office@rrhatx.com).