

HOUSING COMMISSION OF ANNE ARUNDEL COUNTY



GRIEVANCE PROCEDURES



GRIEVANCE PROCEDURES OF THE Housing Commission of Anne Arundel County

I. DEFINITION APPLICABLE TO THE GRIEVANCE PROCEDURE

- A. **GRIEVANCE:** Any dispute which a Tenant may have with respect to a Commission action or failure to act in accordance with the individual Tenant's lease or Commission regulations which adversely affects the individual Tenant's rights, duties, welfare, or status.
- B. **COMPLAINANT:** Any Tenant (as defined below) whose grievance is presented to the Commission (at the central office or the development office) in accordance with the requirements presented in this procedure.
- C. **ELEMENTS OF DUE PROCESS:** An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:
1. Adequate notice to the Tenant of the grounds for terminating the tenancy and for eviction;
 2. Right of the Tenant to be represented by counsel;
 3. Opportunity for the tenant to refute the evidence presented by the Commission, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have;
 4. A decision of the merits.
- D. **HEARING OFFICER:** A person selected in accordance with 24CFR § 966.55 and this procedure to hear grievances and render a decision with respect thereto.
- E. **TENANT:** The adult person (or persons) (other than a Live-in aide): (1) Who resides in the unit, and who executed the lease with the Commission as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) Who resides in the unit, and who is the remaining head of the household of the Tenant family residing in the dwelling unit.

II. APPLICABILITY OF THIS GRIEVANCE PROCEDURE

In accordance with the applicable Federal regulation (24CFR § 966.50) this grievance procedure shall be applicable to all individual grievances (as defined in Section I above) between Tenant and the Anne Arundel County Housing Commission hereinafter referred to as "PHA" with the following two exceptions:

- A. Because HUD has issued a due process determination that the law of the State of Maryland required that Tenant be given the opportunity for a hearing in court which provides the basic

elements of due process (as defined above) before eviction from the dwelling unit, the grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or
 2. Any drug-related criminal activity on or near such premises.
- B. The PHA grievance procedure shall not be applicable to disputes between Tenants not involving the PHA or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners.

This grievance procedure is incorporated by reference in all Tenant dwelling leases.

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to Tenants, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the PHA before any revisions are made to the grievance procedure.

C. ESCROW DEPOSIT REQUIRED FOR A HEARING INVOLVING RENT

Before a hearing is scheduled in any grievance involving the amount of rent which the PHA claims is due under this lease, the complainant shall pay to the PHA or its attorney an amount equal to the rent and other amounts due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant shall, thereafter, deposit the same amount of the monthly rent due in an escrow account monthly until the complaint is resolved by decision of the hearing officer. The PHA acknowledges that should the rent be zero monthly that the other amounts due are still payable.

III. INFORMAL SETTLEMENT OF A GRIEVANCE

Any grievance may be personally presented orally or in writing, to the PHA's central office or the Management office of the development in which the complainant resides **within ten (10) business days of the date that is on the letter**. Grievances received by the PHA's central office will be referred to the person responsible for the management of the development in which the complainant resides.

As soon as the grievance is received, it will be reviewed by the management office of the development to be certain that neither of the exclusions in paragraphs I I.A or II.B above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to the PHA's grievance procedure, with the reason therefor.

If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time **within ten (10) business days** to meet so the grievance may be discussed informally and settled without a formal hearing. At the informal hearing, the complainant will present the grievance and the person in charge of the management office will attempt to settle the grievance to the satisfaction of both parties.

Within five (5) business days following the informal hearing, the PHA shall prepare and either give or mail to Tenant a notice of determination that must specify the names of the participants, the dates of meeting, the nature of the proposed disposition of the complaint, and the specific reasons therefore, and shall specify the procedures by which a formal hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this notice of determination shall also be placed in Tenant's file.

IV. FORMAL GRIEVANCE HEARING

If the complainant is dissatisfied with the settlement arrived at in the informal hearing, the complainant may personally present orally or in writing a request for a hearing to the Management office of the development where Tenant resides **no later than five (5) business days of the date of the notice of determination of the informal hearing**. A receipt signed by the complainant or a return receipt for delivery of certified mail, whether or not signed, will be sufficient proof of time of delivery for the summary of the informal discussion.

The written request shall specify:

- The reason for the grievance;
- The action of relief sought from the PHA; and
- Several dates and times **in the following ten (10) business days** when the complainant can attend a grievance hearing.

If the complainant requests a hearing in a timely manner, the PHA shall schedule a hearing on the grievance at the earliest time possible for the complainant, PHA and the hearing officer **in most instances no later than ten (10) business days** after the PHA received the complainant's request.

If the complainant fails to request a hearing within five business days after receiving the notice of determination of the informal hearing; the PHA's decision rendered at the informal hearing becomes final and the PHA is not obligated to offer the complainant a formal hearing unless the complainant can show good cause why he failed to proceed in accordance with this procedure.

Failure to request a grievance hearing does not affect the complainant's right to contest the PHA's decision in a court hearing.

V. SELECTING THE HEARING OFFICER

A grievance hearing shall be conducted by an impartial person or persons appointed by the PHA to sit as the hearing officer. The Housing Commission will solicit qualified applicants from professional individuals or firms to conduct grievances requested by residents in the Commission's federally assisted housing programs.

The Hearing Officer will be under contract with the Housing Commission based upon the federal procurement process.

- A. Once a potential hearing officers is selected by the PHA , the PHA will consult with the resident organizations. Written

comments from the organizations shall be considered by the PHA before they are appointed as hearing officer.

- B. When the comments from resident organizations have been received and considered, the nominees will be informed that they are the PHA's official grievance hearing members. The PHA will subsequently contact panel members in random order to request their participation as hearing panel members or hearing officers.

VI. ESCROW DEPOSIT REQUIRED FOR A HEARING INVOLVING RENT

Before a hearing is scheduled in any grievance involving the amount of rent which the PHA claims is due under this lease, the complainant shall pay to the PHA an amount equal to the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant shall, thereafter, deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer of hearing panel. This requirement will not be waived by the PHA.

VII. SCHEDULING HEARINGS

When a complainant submits a timely request for a grievance hearing, the PHA will schedule the hearing within the following ten (10) business days on one of the dates and times indicated by the complainant.

Once the hearing officer has agreed upon the hearing date and time, the complainant, and the manager of the development in which the complainant resides, shall be notified in writing. Notice to the complainant shall be in writing, either personally delivered to complainant or sent by mail, return receipt requested. One postponement may be granted for good cause and if proper notice was followed.

The written notice will specify the time, place, and procedures governing the hearing.

VIII. PROCEDURES GOVERNING THE HEARING

The hearing shall be held before a hearing officer as described above in Section VII. The complainant shall be afforded a fair hearing, which shall include:

- A. The opportunity to examine before the hearing any PHA documents, including records and regulations, that are directly relevant to the hearing. Hearings will not be delayed to allow for review of documents, the request must be presented in advance.

The Tenant shall be allowed to copy any such document at the Tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

HCAAC has the right to examine documents that will be presented by Tenant, counsel or other person chosen as Tenant's representative prior to the hearing.

- B. The right to be represented by counsel or other person chosen as the Tenant's representative and to have such person make statements on the Tenant's behalf.
- C. The right to a private hearing unless the complainant requests a public hearing. The

right to present evidence and arguments in support of the Tenant's complaint to controvert evidence relied on by the PHA or project management, and to confront and cross examine all witnesses upon whose testimony or information the PHA or project management relies; and

D. A decision based solely and exclusively upon the fact presented at the hearing.

The hearing officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in Tenant's favor in another proceeding.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and, thereafter, the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed.

The hearing shall be conducted informally by the hearing officer. Oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The hearing officer shall require the PHA, the complainant, counsel and other participants, or spectators to conduct themselves in an orderly fashion. Failure to comply with the directs of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

The complainant or the PHA may arrange in advance, and at expense of the party making the arrangement, for the recording of and a transcript of the hearing. Any interested party may purchase a copy of such transcript.

Upon actual or constructive knowledge by the PHA of a disability by the tenant/applicant the PHA must provide reasonable accommodation for person with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the Tenant is visually impaired, any notice to the Tenant which is required under this procedure must be in an accessible format.

The Hearing Officer is responsible for conducting fair hearings and rendering fair and reasonable decisions based upon the evidence introduced at each hearing as it applies to the law and HCAAC's Admission and Continued Occupancy Policy.

IX. FAILURE TO APPEAR AT THE HEARING

If the complainant or the PHA fails to appear at the scheduled hearing. the hearing officer may make a determination to postpone the hearing to a date within the next **five (5) business days**, or may make a determination that the party has waived their right to a hearing.

Both the complainant and the PHA shall be notified in writing of the determination by the hearing officer. A determination that the complainant has waived his right to a hearing shall not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in court.

X. DECISION OF THE HEARING OFFICER

The hearing officer shall prepare a written decision, with the reasons for the decision **within**

ten (10) business days after the hearing. A copy of the decision shall be sent to the complainant and the PHA.

The PHA shall retain a copy of the decision in the Tenant's folder. A copy of the decision with all names and identifying references deleted, shall also be maintained on file by the PHA and made available for inspection by a prospective complainant, his representative, or the hearing officer.

The decision of the hearing officer shall be binding on the PHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the PHA's Board of Commissioners determines otherwise within ten business days, and promptly notifies the complainant of its determination that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease or PHA regulations, which adversely affect the complainant's rights, duties, welfare or status.
- B. The decision of the hearing officer is contrary to applicable Federal, State or local law, HUD regulation, or requirements of the annual contributions contract between HUD and the PHA.
- C. A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any way, the rights of the complainant to a trial or judicial review in any court proceedings which may be brought in the matter later.