

## **GRIEVANCE PROCEDURE HACKENSACK HOUSING AUTHORITY**

### **I. RIGHT TO A HEARING**

Upon the filing of a written request as provided in these procedures, a Tenant shall be entitled to a hearing before a hearing officer.

### **II. DEFINITIONS**

For the purpose of this Grievance Procedure, the following definitions are applicable:

- (A) "Grievance" shall mean any dispute which a Tenant may have with respect to Landlord action or failure to act in accordance with the individual Tenant's lease or Landlord regulations which adversely affect the individual Tenant's rights, duties, welfare or status. Grievance does not include any dispute a Tenant may have with Landlord concerning a termination of tenancy or eviction that involves any activity that may threaten the health, safety, or right to peaceful enjoyment of the Landlord's public housing premises by other Tenants or employees of the Landlord, or any criminal activity or drug-related criminal activity on or off such premises.
- (B) "Complainant" shall mean any Tenant whose grievance is presented to the Landlord or at the project management office in accordance with Section III and Section IV.
- (C) "Elements of due process" shall mean 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 Landlord 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 on the merits.
- (D) "Hearing officer" shall mean a person selected in accordance with Section IV of these procedures to hear grievances and render a decision with respect thereto.
- (E) *Tenant* shall mean the adult person (or persons) (other than a live-in aide):
  - (1) Who resides in the premises, and who executed the lease with the Landlord as lessee of the premises, or, if no such person now resides in the premises,

- (2) Who resides in the premises, and who is the remaining head of household of the Tenant family residing in the premises.
- (F) *Resident organization* includes a resident management corporation.
- (G) **Promptly** (as used in Section III, and IV.(D)) shall mean within five business days from the date of mailing of the adverse action or grievable complaint.

### III. PROCEDURES PRIOR TO A HEARING

*Informal settlement of grievance.* Any grievance shall be promptly and personally presented, either orally or in writing, to the Landlord office or to the office of the project in which the Tenant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the Tenant and one retained in the Landlord's Tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall specify the procedures by which a hearing under these procedures may be obtained if the Tenant is not satisfied. **The purpose of this informal settlement of grievance is to allow the Tenant and management to informally discuss an issue without the need for third parties, including witnesses or representatives, to be involved. At any time that a third party, including a witness or representative becomes or should become involved in the process, the informal settlement conference shall become a "hearing" and the procedures found in Section IV hereof shall apply. The housing authority shall notify the Tenant of the date and time that the hearing will take place.**

### IV. PROCEDURES TO OBTAIN A HEARING

- (A) *Request for hearing.* In the event that the Tenant is not satisfied with the informal settlement of grievance provided for in Section III, the Tenant shall submit a written request for a hearing to the Landlord or the project office within five (5) business days from date of mailing of the summary of discussion pursuant to Section III. The written request shall specify:
  - (1) The reasons for the grievance; and
  - (2) The action or relief sought.
- (B) *Selection of Hearing Officer.* A grievance hearing shall be conducted by an impartial person appointed by the Landlord other than a person who made or approved the Landlord action under review or a subordinate of such person.

The Landlord shall annually submit a list of prospective hearing officers. This list shall be provided to any existing resident organization for such organization's comments or recommendations. The Landlord shall consider any comments or recommendations by the resident organization submitted in a reasonable time.

From this list, a hearing officer shall be selected.

- (C) *Failure to request a hearing.* If the Tenant does not request a hearing in accordance with this Section, then the Landlord's disposition of the grievance under Section III shall become final: Provided, That failure to request a hearing shall not constitute a waiver by the Tenant of the right thereafter to contest the Landlord's action in disposing of the complaint in an appropriate judicial proceeding.
- (D) *Hearing prerequisite.* All grievances shall be promptly presented in person, either orally or in writing pursuant to the informal procedure prescribed in Section III as a condition precedent to a hearing under this section: Provided, That if the Tenant shall show good cause why there was failure to proceed in accordance with Section III to the hearing officer, the provisions of this Subsection may be waived by the hearing officer.
- (E) *Escrow deposit.* Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Landlord claims is due, the Tenant shall pay to the Landlord an amount equal to the amount of 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 Tenant shall thereafter deposit monthly the same amount of the monthly rent in an escrow account held by the Landlord until the complaint is resolved by decision of the hearing officer. Amounts deposited into the escrow shall not be considered as acceptance of money for rent during the period in which the grievance is pending. The Landlord in extenuating circumstances may waive these requirements. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure: Provided, that failure to make payment shall not constitute a waiver of any right the Tenant may have to contest the Landlord's disposition of his grievance in any appropriate judicial proceeding.
- (F) *Scheduling of hearings.* Upon the Tenant's compliance with this Section, or upon the housing authority notifying the tenant or his/her representative that a hearing will be held, a hearing shall be promptly scheduled by the hearing officer for a time and place reasonably convenient to both the Tenant and the Landlord. A written notification specifying the date, time, place and the procedures governing the hearing shall be delivered to the Tenant and the appropriate Landlord official.

## **V. PROCEDURES GOVERNING THE HEARING**

- (A) The Tenant shall be afforded a fair hearing, which shall include:
  - (1) The opportunity to examine before the grievance hearing any Landlord documents, including records and regulations that are directly relevant to the hearing. The Tenant shall be provided a copy of any such document at the Tenant's expense. If the Landlord does not make the document available for examination upon request by the Tenant, the Landlord may not rely on such document at the grievance hearing.
  - (2) 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;

- (3) The right to a private hearing unless the Tenant requests a public hearing;
  - (4) The right to present evidence and arguments in support of the Tenant's complaint, to controvert evidence relied on by the Landlord or project management, and to confront and cross-examine all witnesses upon whose testimony or information the Landlord or project management relies; and
  - (5) A decision based solely and exclusively upon the facts presented at the hearing.
- (B) *Accommodation of persons with disabilities.*
- (1) The Landlord shall provide reasonable accommodation for persons with disabilities to participate in the hearing.  
  
Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.
  - (2) If the Tenant is visually impaired, any notice to the Tenant that is required by these procedures must be in an accessible format.
- (C) At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the HA must sustain the burden of justifying the HA action or failure to act against which the complaint is directed.

## **VI. DECISION OF THE HEARING OFFICER**

- (A) The hearing officer shall prepare a written decision, together with the reasons therefor, within a reasonable time (not to exceed 10 calendar days) after the hearing. A copy of the decision shall be sent to the Tenant and the Landlord. The Landlord shall retain a copy of the decision in the Tenant's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the Landlord and made available for inspection by a prospective complainant, his representative, or the hearing officer.
- (B) The decision of the hearing officer shall be binding on the Landlord which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Landlord's Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that:
  - (1) The grievance does not concern Landlord action or failure to act in accordance with or involving the Tenant's lease or Landlord regulations, which adversely affect the Tenant's rights, duties, welfare or status;
  - (2) The decision of the hearing officer is contrary to applicable Federal, State or local law, Landlord regulations or requirements of the Annual Contributions Contract between

Landlord and the U.S. Department of Housing and Urban Development.

- (C) A decision by the hearing officer or Board of Commissioners in favor of the Landlord or which denies the relief requested by the Tenant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the Tenant may have to a trial *de novo* or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

## VII. ONE STRIKE ACTIONS

The Grievance procedure does not apply to evictions being brought under the federal One-Strike Policy regarding drugs and violent crimes. These actions generally require prompt action by the Housing Authority in order to protect the life, health and safety of the other residents. The determination of the applicable court shall have total jurisdiction over these cases. The determination of the court shall be binding on all parties.”

I have received a copy of this grievance procedure and have had an opportunity to ask questions about the procedure.

\_\_\_\_\_  
Tenant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tenant

\_\_\_\_\_  
Date

# **Hackensack Housing Authority**

## **GRIEVANCE PROCEDURE**

### **FOR TENANTS OF PUBLIC HOUSING**

#### **1. PURPOSE AND SCOPE**

Every tenant shall have the right to a hearing if the tenant disputes within a reasonable time any LHA action or failure to act involving the tenant's lease with the LHA or LHA regulations which adversely affect the individual tenant's rights, duties, welfare or status. this procedure shall not be applicable to disputes between tenants not involving the LHA or to class grievances.

#### **2. DEFINITIONS**

- (A) "Grievance" shall mean any dispute which a tenant may have with respect to LHA action or failure to act in accordance with the individual tenant's lease or LHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.
- (B) "Complainant" shall mean any tenant whose grievance is presented to the LHA or at the project management office in accordance with procedure outlined below.
- (C) "Hearing Officer" shall mean a person selected in accordance with procedures outlined herein to hear grievances and render a decision with respect thereto.
- (D) "Hearing Panel" shall mean a panel selected in accordance with procedures outlined herein to hear grievances and to render a decision with respect thereto.
- (E) "Tenant" shall mean any lessee or the remaining head of the household of any tenant family residing in housing accommodations of the LHA.
- (F) "LHA" shall mean the Housing Authority of the City of Hackensack.

#### **3. INFORMAL SETTLEMENT OF GRIEVANCE**

Any grievance shall be personally presented, either orally or in writing, to the LHA office so that the grievance may be discussed informally and settled without a hearing. Such grievance must be submitted by the complainant and filed in the office by him or his representative within a reasonable time, not in excess of twenty (20) days of the LHA action or failure to act which is the basis for the grievance. It may be simply stated, but shall specify:

- 1. The particular grounds upon which it is based; and
- 2. The action requested.

A summary of such discussion shall be prepared within a reasonable time (generally within five (5) working days) and one copy shall be given to the tenant and one retained in the LHA's tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall specify the procedures by which a hearing under procedures outlined below may be obtained if the complainant is not satisfied.

#### **4. PROCEDURE TO OBTAIN A HEARING**

##### **A. Request For Hearing:**

The complainant shall submit a written request for a hearing to the LHA within a reasonable time (generally ten (10) working days) after receipt of the summary of discussion above. The written request shall specify: (1) the reasons for the grievance; and (2) the action or relief sought.

##### **B. Selection of Hearing Officer or Hearing Panel:**

Grievances shall be presented before a hearing officer or hearing panel. A hearing officer or hearing panel shall be selected as follows:

- (1) The hearing officer shall be an impartial, disinterested person selected jointly by the LHA and the complainant. If the LHA and the complainant cannot agree on a hearing officer, they shall each appoint a member of a hearing panel and the members so appointed shall select a third member. If the members appointed by the LHA and the complainant cannot agree on a third member, such member shall be appointed by an independent arbitration organization, such as the Center for Disputes Settlement of the American Arbitration Association, or by any other third party agreed upon by the LHA and the complainant.

##### **C. Failure to Request A Hearing:**

If the complainant does not request a hearing in accordance with this paragraph, then the LHA's disposition of the grievance shall become final provided that failure to request a hearing shall not constitute a waiver by the complainant of his right thereafter to contest the LHA's action in disposing of the complaint in an appropriate judicial proceeding.

##### **D. Hearing Prerequisite:**

All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed above as a condition precedent to a hearing under this section, **provided**, that if the complainant shall show good cause why he failed to proceed in accordance with that procedure to the hearing officer or hearing panel, the provisions of this subsection may be waived by the hearing officer or hearing panel.

##### **E. Escrow Deposit:**

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the tenant's lease, which the LHA claims is due, the complainant shall pay to the LHA an amount equal to the amount of 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 or hearing panel. These requirements may be waived by the LHA in extenuating circumstances. Unless so waived, the failure to make such payments, shall result in a termination of the grievance procedure, **provided**, that failure to make payment shall not constitute a waiver of any right the complainant may have to contest the LHA's disposition of his grievance in any appropriate judicial proceeding.

##### **F. Scheduling of Hearings:**

Upon complainants compliance with paragraph A, D, and E, of this section, a hearing shall be scheduled by the hearing officer or hearing panel promptly for a time and place reasonably convenient to both the complainant and the LHA. A written notification specifying the time, place and procedures governing the hearing shall be delivered to the complainant and the appropriate LHA official.

## **5. PROCEDURES GOVERNING THE HEARING**

**A.** The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:

- (1)** The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents, records and regulations of the LHA that are relevant to the hearing. Any document not so made available after request therefor by the complainant may not be relied upon by the LHA at the hearing;
- (2)** The right to be represented by counsel or other person chosen as his or her representative;
- (3)** The right to a private hearing unless the complainant requests a public hearing;
- (4)** The right to present evidence and arguments in support of his or her complaint, to contravert evidence relied upon by the LHA or project management, and to confront and cross-examine all witnesses on whose testimony or information the LHA or project management relies; and
- (5)** A decision based solely and exclusively upon the facts presented at the hearing.

**B.** The hearing officer or hearing panel may render a decision without proceeding with the hearing if the hearing officer or hearing panel determines that the issue has been previously decided in another proceeding.

**C.** If the complainant or the LHA fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing for a period not to exceed five (5) business days or may make a determination that the party has waived his right to a hearing. Both the complainant and the LHA shall be notified of the determination by the hearing officer or hearing panel, **provided** that a determination that the complainant has waived his right to a hearing will not constitute a waiver of any right the complainant may have to contest the LHA's disposition of the grievance in an appropriate judicial proceeding.

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

**E.** The hearing shall be conducted informally by the hearing officer or hearing panel and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules and evidence applicable to judicial proceedings. The hearing officer or hearing panel shall require the LHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer or the hearing panel 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 relief sought as appropriate.

**F.** The complainant or the LHA may arrange, in advance and at the expense of the party making the arrangement for a transcript of the hearing. Any interested party may purchase a copy of said transcript.



## **6. DECISION OF THE HEARING OFFICER OR HEARING PANEL**

A. The hearing officer or hearing panel shall prepare a written decision together with the reasons therefor within a reasonable time after the hearing. A copy of the decision shall be sent to the complainant and the LHA. The LHA shall retain a copy of the decision in the tenant's folder. A copy of such decision, with all names and identifying references deleted shall also be maintained on file by the LHA and made available for inspection by a prospective complainant, his representative or the hearing panel or hearing officer.

B. The decision of the the hearing officer or hearing panel shall be binding on the LHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the LHA commissioners determine within a reasonable time, and not later than thirty (30) days, and promptly notify the complainant of its determination, that:

- (1) The grievance does not concern LHA action or failure to act in accordance with or involving the complainant's lease or LHA regulations, which adversely affect the complainant's rights, duties, welfare or status;
- (2) The decision of the hearing officer or hearing panel is contrary to applicable Federal, State or local law, HUD regulations or requirements of the annual Contributions Contract between HUD and the LHA.

C. A decision by the hearing officer, hearing panel or Board of Commissioners in favor of the LHA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, any right the complainant may have to a trial *de novo* or judicial review in any judicial proceedings which may thereafter be brought in the matter.

## **7. LHA EVICTION ACTIONS**

If a tenant has requested a hearing in accordance with procedures outlined above on a complaint involving a LHA notice of termination of the tenancy and the hearing officer or hearing panel upholds the LHA's action to terminate the tenancy, the LHA shall not commence an eviction action in a State or local court until it has served a notice to vacate on the tenant and in no event shall the notice to vacate be issued prior to the decision of the hearing officer or the hearing panel having been mailed or delivered to the complainant. Such notice to vacate must be in writing and specify that if the tenant fails to quit the premises within three (3) days, or on the termination dates stated in the notice of termination, which ever is later, appropriate action will be brought against him and he may be required to pay court costs and attorney's fees.

July 24, 2007

NOTICE

To: All Housing Authority Residents

From: William F. Snyder, Executive Director

Re: Grievance Procedure Revision-Request for Comments

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Please be advised that the Housing Authority is in the process of reviewing its policies to determine if they are in need of revision. We have determined that we would like to revise our Grievance Procedure to include the following section:

**"8. ONE STRIKE ACTIONS**

The Grievance procedure does not apply to evictions being brought under the federal One-Strike Policy regarding drugs and violent crimes. These actions generally require prompt action by the Housing Authority in order to protect the life, health and safety of the other residents. The determination of the applicable court shall have total jurisdiction over these cases. The determination of the court shall be binding on all parties."

Please feel free to comment on the proposed change to the Housing Authority's Grievance Procedure. All comments will be taken into consideration prior to adoption of any changes by the Board of Commissioners. This matter will be scheduled for consideration at the September meeting of the Board of Commissioners. A hearing will be scheduled for that date and time.