

Appendix B:

Grievance Procedure

1. Applicability

- A. The PHA Grievance Procedure is applicable to all individual grievances as defined in Section 2 between the Tenant and the PHA, except as provided in paragraphs 1 and 2 below. The PHA may exclude from its procedure any grievance concerning an eviction or termination of tenancy that involves:
 - 1. **Any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other Tenants or employees of the PHA; or**
 - 2. **Any drug-related and/or criminal activity on or off the premises, not just on or near the premises.**
- B. The PHA Grievance Procedure is not applicable to disputes between Tenants not involving the PHA or to class grievances. The Grievance Procedure is not a forum for initiating or negotiating policy changes between a Tenant or a group of Tenants and the PHA's Board of Commissioners.
- C. The PHA Grievance Procedure is not applicable to any PHA actions where the Tenant has executed a signed written waiver of his or her right to grieve a matter.

2. Definitions

- A. "Grievance" means any dispute that a Tenant may have with respect to PHA action or failure to act, in accordance with the individual Tenant's lease or PHA regulations, that adversely affects the individual Tenant's rights, duties, welfare or status.
- B. "Complainant" means any Tenant whose grievance is presented to the PHA in accordance with Section 3 of this procedure.
- C. "Tenant" means the adult person (or persons):
 - 1. Who resides in the dwelling unit, and who executed the lease with the PHA as lessee(s) of the unit, or, if no such person now resides in the unit;
 - 2. Who resides in the dwelling unit and who is the remaining head of household of the Tenant family residing in the unit.

"Tenant" does not include a live-in aide.

3. Informal Settlement of Grievance

A grievance must be personally presented by a Complainant, either orally or in writing, to the PHA Office so that the grievance may be discussed informally and possibly settled without a hearing. The grievance must be presented within ten (10) calendar days of the PHA's action or failure to act. A summary of the informal discussion shall be prepared within the next five

(5) calendar days and a copy shall be mailed or delivered to the Tenant and one retained in the PHA's tenant file. The summary shall specify the names of the participants, date of the meeting, the nature of and specific reasons for the proposed disposition of the complaint, and the procedures by which a hearing under Section 4 may be obtained if the Complainant is not satisfied.

4. Procedures To Obtain A Hearing

- A.** The Complainant shall submit a written request for a hearing to the PHA Office or to the management office within ten (10) calendar days after receipt of the summary of discussion pursuant to Section 3. The written request must specify:
1. The reasons for the Grievance; and
 2. The action or relief sought.
- B. Selection of Hearing Officer.** Grievance Hearings shall be conducted by an impartial person appointed by the PHA, other than a person who made or approved the PHA action under review or a subordinate of such person. The Hearing Officer selected for a specific hearing shall be a person from a list of Hearing Officers appointed by the PHA and approved by the board.
- C. Failure to Request a Hearing.** If the Complainant does not request a hearing in accordance with this section, then the PHA's disposition of the grievance under Section 3 shall become final, except that failure to request a hearing does not constitute a waiver of the Complainant's right to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.
- D. Hearing Pre-Requisite.** All grievances must be personally presented in the manner prescribed for the informal procedure in Section 3 before there will be a hearing conducted under this section, except that if the Complainant otherwise presents a proper request for a Grievance Hearing and wishes to show good cause why he or she did not follow the procedure, a Hearing Officer shall be appointed in accordance with Section 4.B. Prior to any Grievance Hearing the Hearing Officer shall determine whether or not Complainant has shown good cause and shall determine whether or not to proceed with a hearing or allow the PHA's disposition of the grievance to stand.
- E. Escrow Deposits.** Before a hearing is scheduled in any grievance involving the amount of rent which the PHA claims is due, the Complainant shall pay to the PHA an amount equal to the amount of the rent due and payable as of the first of the month preceding the month in which it is complained the PHA acted or failed to act. The Complainant must continue to pay the same amount of the monthly rent to the PHA escrow account monthly until the complaint is resolved by decision of the Hearing Officer. Before a hearing is scheduled or heard in any other type of grievance, the Complainant must have paid the current month's rent to the PHA or to the PHA escrow account.

5. Procedures Governing The Hearing

- A.** The hearing shall be held before a Hearing Officer.
1. At least 5 calendar days prior to the hearing, the PHA shall notify Complainant of the names of witnesses who may be called to testify on behalf of the PHA.

2. At least 5 calendar days prior to the hearing, the Complainant or Complainant's representative shall notify the PHA of the names of witnesses who may be called to testify on behalf of Complainant.

B. The Complainant shall be afforded a fair hearing, which shall include:

1. The opportunity to examine before the Grievance Hearing any PHA documents, including records and regulations that are directly relevant to the hearing. An appointment would need to be made in order to review items. The Complainant shall be allowed to copy any such document at the Complainant's own 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;
2. The right to be represented by counsel or other person chosen as the Complainant's representative, and to have such person make statements on the Complainant's behalf;
3. The right to a private hearing unless the Complainant requests a public hearing;
4. The right to present evidence, witness(es), and arguments in support of the Complainant's complaint, to controvert evidence relied on by the PHA, and to confront and cross-examine all witnesses upon whose testimony or information the PHA relies; and
5. A decision based solely and exclusively upon the facts presented at the hearing.

C. At the PHA's request, the Complainant shall provide the PHA with the opportunity to examine before the Grievance Hearing any documents the Complainant plans to present at the Grievance Hearing. If the Complainant does not make the document available for examination upon request by the PHA, the Complainant may not rely on such document at the Grievance Hearing. At the PHA's request, the Complainant shall provide the PHA with information regarding the scope and relevancy of the testimony of Complainant's witness(es). The PHA is entitled to cross-examine all witnesses upon whose testimony or information the Complainant relies.

D. The Hearing Officer may render a decision without proceeding with the hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.

E. If the Complainant or the PHA fails to appear at a scheduled hearing, the Hearing Officer shall determine whether to postpone the hearing for a period not to exceed five (5) business days or whether the Complainant, by not appearing, has waived his or her right to a hearing. The hearing shall not be postponed because of a failure of a witness to appear, unless there has been an exceptionally good cause shown and in such case the hearing shall not be postponed more than five (5) business days. The Hearing Officer may also determine that the hearing may proceed in the absence of either party if counsel or the authorized representative of both parties so agree. Both the Complainant and the PHA shall be notified of the determination by the Hearing Officer. A determination that

the Complainant has waived his or her right to a hearing is not a waiver of any right the Complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

- F. At the hearing, the Complainant must first make a showing of the 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.
- G. The hearing shall be conducted informally by the Hearing Officer and oral and documentary evidence pertinent to the facts and issues raised by the Complainant 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 directions 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.
- H. The Complainant or the PHA 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 such transcript.
- I. When given reasonable advance notice, the PHA shall provide reasonable accommodation for persons with disabilities to participate in the hearing, including, but not limited to, providing qualified sign language interpreters, readers, accessible locations, or attendants.

6. Decision of the Hearing Officer

- A. The Hearing Officer shall issue a written decision, which includes the reasons for it, within 10 calendar days after the hearing. A copy of this decision shall be sent to the Complainant and the PHA. The PHA shall retain a copy of the decision in the tenant's file. A copy of such 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, the Complainant's authorized representative, or the Hearing Officer or Hearing Panel.
- B. The decision of the Hearing Officer is binding on the PHA which shall take all actions, or refrain from any actions necessary to carry out the decision unless the PHA Board of Commissioners determines within a reasonable time, and promptly notifies the Complainant of its determination that:
 - 1. The grievance does not concern PHA action or failure to act in accordance with or involving the Complainant's lease or PHA regulations that adversely affect the Complainant's rights, duties, welfare or status; or
 - 2. The decision of the Hearing Officer is contrary to applicable federal, state or local law, HUD regulations 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 that denies the relief requested by the Complainant in whole or in part is not a waiver of, nor

does it affect in any manner, any rights 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. Hearing May Be Waived

At any time after the Complainant has requested either an informal settlement meeting or a formal Grievance Hearing, the PHA and the Complainant may enter into a written settlement agreement. As a part of the settlement agreement, the Complainant may, in return for concessions from the PHA, waive a Grievance Hearing with respect to the grievance originally presented to the PHA.

AVISO!

Si no puede usted leer inglés, favor de avisar a su representante de PHA (Agencia de Alojamiento Público) para que le proporcionen un intérprete.

TRANSLATION

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NOTICE!

If you cannot read English, please ask your PHA contact person to provide an interpreter.

CEEBTOOM!

Yog tias koj nyeem tsis tau Askiv, nug tus neeg ua hauj lwm rau koj tom tsev loom (PHA) kom pab nrhiav neeg txhais lus.

TRANSLATION

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