

WARNER ROBINS AND HOUSTON COUNTY HOUSING AUTHORITY

GRIEVANCE POLICY

I. PURPOSE

This grievance procedure has been adopted to provide a forum and procedure for residents to seek the just, effective and efficient settlement of grievances against the Housing Authority.

II. GOVERNING LAW

The law governing this grievance procedure is section 6(k) of the U.S. Housing Act of 1937 (42 U.S.C. sec. 1437d (k) and subpart B of 24 CFR part 966 (24 CFR secs. 966.50 – 966.57).

III. APPLICABILITY

In accordance with applicable federal regulations, this grievance procedure shall be applicable to all individual grievances (as defined in Section IV below) between a resident and the PHA with the following two (2) exceptions:

- A. This grievance procedure is not applicable to disputes between residents not involving the PHA, or to class grievances involving groups of residents. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between residents, or groups of residents, and the PHA's Board of Commissioners.
- B. HUD has issued a determination that Georgia State law provides the basic elements of due process necessary when eviction of a resident occurs in the following cases, and therefore this policy is not applicable when the evictions is due to
 - (1) Any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employment of HA or
 - (2) Any drug-related criminal activity on or off such premises.

IV. DEFINITIONS

The following definitions of terms shall be applicable to this grievance procedure:

- A. **Grievance:** Any dispute which a resident may have with respect to an action or a failure to act by PHA in accordance with the individual resident's lease or PHA regulations, which adversely affects the individual resident's rights, duties, welfare, or status.
- B. **CFR:** The code of federal regulations that contains the federal regulation governing this grievance procedure
- C. **Complainant:** Any resident (as defined in this section below) whose grievance is presented to the office designated by your community, in accordance with the requirements set forth in this procedure.
- D. **Drug-related criminal activity:** The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sale, distribute, or use of a controlled substance as defined in sec. 102 of the Controlled Substances Act (21 U.S.C. sec 802), as from time to time amended.
- E. **PHA or "Housing Authority":** The Housing Authority, a body corporate organized and existing under the laws of the State of Georgia.
- F. **Elements of due process:** The following procedural safe guards are required to be followed in an eviction action or a termination of tenancy in a state or local court:
 - (1) Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
 - (2) Right of the resident to be represented by counsel;
 - (3) Opportunity for the resident to refute the evidence presented by the PHA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have;
 - (4) A decision on the merits.
- G. **Hearing Officer:** An impartial person selected in accordance with 24 CFR Sec 966.55 and this grievance procedure to hear grievances and render decisions with respect thereto.
- H. **Hearing Panel:** A three-member panel composed of impartial persons, selected in accordance with 24 CFR Sec 966.55 and this Procedure to hear grievances and render decisions with respect thereto
- I. **HUD:** The United States Department of Housing and Urban Development.
- J. **Notice:** As used herein, the term notice shall, unless otherwise specifically provided, mean written notice;
- K. **The "Regulations":** The HUD regulations contained in subpart B of 24 CFR part 966
- L. **Resident Organization:** An organization of residents, which includes any Resident Management Corporation and specifically includes the Resident Organization.
- M. **Resident:** The adult person (or persons) other than a live-in aide.
 - (1) Who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person resides in the unit
 - (2) The person who resides in the unit and who is the remaining head of the household of the resident family residing in the dwelling unit.
- N. **Business Days:** Monday through Thursday each week, except for legal holidays recognized by the federal government,

V. INCORPORATION IN LEASES

This grievance procedure shall be incorporated by reference in all public housing dwelling leases between residents and the PHA, whether or not so specifically provided in such leases.

VI. INFORMAL SETTLEMENT OF GRIEVANCES

- A. NONE

VII. FORMAL GRIEVANCE HEARING

The following procedures apply to the request for a formal grievance hearing under this grievance procedure:

- A. Request for Hearing:** If the complainant is not satisfied with the notice of lease termination, the complainant must submit a written request for formal hearing to PHA's Central Office, no later than five (5) business days after the date complainant receives the summary of discussion delivered as required under Section VI above.

Complainant's written request for a formal hearing must specify:

- (1) The reasons for the grievance;
 - (2) The action or relief sought by the complainant, and
 - (3) If the complainant so desires, a statement setting forth the times at which the complainant shall be available for a hearing during the next ten (10) business days;
 - (4) Complainant's preference, if any, concerning whether the grievance should be heard by a single hearing officer or panel waive this requirement.
 - (5) If the complainant has failed to attend an informal discussion conference, a request that the hearing officer or panel waive this requirement.
- B. Failure to Request Hearing:** If the complainant fails to request a hearing within five (5) business days of the date of the eviction notice, the eviction notice becomes final and the PHA is not thereafter obligated to offer the complainant a formal hearing.

VIII. SELECTION OF HEARING OFFICER OR PANEL:

All grievance hearings shall be conducted by an impartial person or persons appointed by the PHA after consultation with resident organizations, in the manner described below:

- A.** The permanent appointments of persons who shall serve as hearing officers and hearing panel members shall be governed by the following procedures:
- (1) The PHA shall nominate a state of persons to sit as permanent hearing officers or hearing panel members. These staff members, residents, or other responsible persons in the community. No persons shall be listed on the slate of members unless such person has consented to serve as a hearing officer or on a hearing panel
 - (2) The slate of potential appointees shall be submitted to the Resident Organization for written comments. Written comments from the resident organization shall be considered by the PHA before appointments are finally made. Objection to the appointment of a person as a hearing officer or panelist must be considered but is not dispositive as to the proposed appointment with respect to which objection is made.
 - (3) On final appointment, the persons appointed and the Resident Organization shall be informed in writing of the appointments. A list of all qualified hearing panelists shall be kept at the Central Office of the PHA and be made available for public inspection at any time.

The persons who have agreed to service as hearing panelists for grievances brought under this procedure are listed on Exhibit I attached hereto and hereby incorporated herein by reference. Additional appointments shall be made in the manner set forth in this section.

- B.** The designation of hearing officers or panel members for particular grievances hearing shall be governed by the following provisions:
- (1) All hearings shall be held before a single hearing officer unless the complainant (at the time of the initial request for the hearing) or the PHA request that the grievance should be heard by a hearing panel.
 - (2) Appointments to serve as a hearing officers or panelist with respect to a particular grievance shall be made by the PHA in random order, subject to availability of the hearing officer or panelist to serve in each such case. The PHA may employ any reasonable system for random order choice.
 - (3) No member of the PHA Board of Commissioners or staff may be appointed as hearing officer panelist in connection with the grievance contesting an action which was either made or approved by proposed appointee, or which was made or approved by a person under whom the proposed appointee works or serve as a subordinate.
 - (4) No person shall accept and appointment, or retain an appointment once selected as a hearing officer or hearing panelist, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as hearing officers or panelists must disqualify themselves from hearing grievances that involve personal friends, relatives, persons with whom they have any business relationship, or grievances in which they have some personal interest. Further, such persons are expected to disqualify themselves if the circumstances are such that a significant perception of partiality exists and is reasonable under the circumstances. If a complainant fails to object to the designation of the hearing officer or panelists on the grounds of partiality, at the commencement or before the hearing, such objection is deemed to be waived, and may not thereafter be made.

In the event that a hearing officer or panel member fails to disqualify himself or herself as required in this grievance procedure, the PHA shall remove the panel member or officer from the list of persons appointed for such purposes, invalidate the results of the grievance hearing in which such person should have, but did not, disqualify himself or herself, and schedule a new hearing with a new hearing panel or officer.

IX. SCHEDULING OF HEARINGS

- A. Hearing Prerequisites:** A complainant does not have a right to grievance hearing unless the complainant has satisfied the following prerequisites to such a hearing:

- (1) The complainant has requested a hearing in writing.
- (2) The complainant has completed the informal settlement conference procedure or has requested a waiver for good cause.
- (3) If the matter involves the amount of rent which the PHA claims is due under the complainant's lease, the complainant shall have paid to the PHA an amount equal to the amount due and payable as of the first of the month preceding the month in which the complained of act or failure to act took place. And, in the case of situations in which hearings are, for any reason delayed, 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. Unless waived by the PHA in writing, no waiver shall be given by the PHA except in cases or extreme and undue hardship to the complainant, determined in the sole and absolute discretion of the PHA.

- B. Time, Place, Notice**

- (1) Upon complainant's compliance with the prerequisites to a hearing set forth above, 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 PHA, no later than the tenth (10th) business day after complainant has completed such compliance. (In the case of a panel, if all three appointed members of the panel are not able to agree upon a date and time convenient to all panelists, on or before the last date before the hearing permitted under this procedure, they shall

immediately so inform the PHA. If two panelists can agree upon a date and time, the PHA shall reappoint a third panelist who shall be available at the time agreed upon by two who can agree. If none of the panelists can agree upon a time, a new panel shall be appointed.

- (2) A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate PHA official, who, unless otherwise designated shall be the Executive Director

X. PROCEDURES GOVERNING HEARINGS

A. Fair Hearings

The hearings shall be held before a hearing officer of hearing panel as directed above in Section VIII. The complainant shall be afforded a fair hearing, which shall include:

- (1) The opportunity to examine before the hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The complainant shall be allowed to copy any such document at the complainant'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.
- (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. The right to present evidence 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 or its management relies.
- (4) A decision solely and exclusively upon the facts presented at the hearing.

B. Prior Decision In Same Matter

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

C. Failure to Appear

If the complainant or the PHA fails to appear at the 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 failing to attend has waived the right to a hearing. In such event, the hearing officer or hearing panel shall notify the complainant and the PHA of the determination.

The failure to attend a grievance hearing shall not constitute a waiver of any right for which the complainant may have to contest PHA's disposition of the grievance in an appropriate judicial proceeding.

D. Required Showing of Entitlement to Relief

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 PHA's action or failure to act against which the complainant is directed.

E. Informally of Hearing

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 complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceeding.

F. Orderly Conduct Required

The hearing officer or hearing panel 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 or 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 to the relief sought, as appropriate.

G. Transcript of Hearing

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.

H. Accommodation to Handicapped Persons

The PHA must provide reasonable accommodations for persons with disabilities to participate in grievance hearings. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.

XI. DECISION OF THE HEARING OFFICER OR HEARING PANEL

At or subsequent to the completion of the grievance hearing, the hearing officer or panel shall make a determination as to the merits of the grievance and the following provisions shall govern:

A. Written Decision

The hearing panel or officer shall prepare a written decision, together with the reasons for the decision within ten (10) business days after the completion of hearing:

- (1) A copy of the decision shall be sent the complainant and the PHA. The PHA shall retain a copy of the decision in the complainant's file.
- (2) 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 any prospective complainant, his/her representative, or the hearing panel or hearing officer.

B. Binding Effect

The written decision of the hearing officer or hearing panel shall be binding upon the PHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless PHA's Board of Commissioners determines, within ten (10) business days, and properly notifies the complainant of its determination, that:

- (1) The grievance does not concern PHA action or failure to act in accordance or involving the complainant's lease, or PHA's regulations, which adversely affect the complainant's rights, duties, welfare or status, or
- (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 PHA

C. Continuing Right of Complainant to Judicial Proceedings

A decision by the hearing panel or officer or Board of Commissioner 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 judicial proceedings, which may thereafter be brought in the matter.

XII. EXPEDITED GRIEVANCE PROCEDURE

- A. The expedited grievance procedure shall apply only to those grievances concerning a termination of tenancy or eviction that involves:
- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other tenants or employees of the PHA's premises.
 - Any drug-related criminal activity on or near the PHA's premises.
- B. When the PHA notifies the tenant of a termination of tenancy or eviction that involves the above referenced violations, the PHA shall also include in that notice that any grievance hearing requests shall be in accordance with the expedited grievance procedure.
- C. The complainant shall have five (5) business days from the date of the notice in which to file a written request for a hearing to the PHA. The written request shall specify:
- The reasons for the grievance; and,
 - The action or relief sought.
- D. The complainant shall not have the grievance informally discussed as outlined in Section VI of this policy.
- E. Within 24 hours of receipt by the PHA of the complainant's request for a hearing, the Executive Director or designee shall notify the Resident Organization(s) of his/her selection of a hearing officer or hearing panel. The selection of the hearing officer or hearing panel. Upon expiration of the five (5) business day comment period, the Executive Director or designee shall have one (1) business day to review the comments and make a final selection as to the member(s) of the hearing officer or hearing panel.
- F. Upon complainant's compliance with subsection C of this section, a hearing shall be scheduled by the hearing PHA, not in excess of five (5) business days of the selection of the hearing officer or hearing panel. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the complainant and the appropriate PHA official.

XIII. NOTICES

All notices under this grievance procedure shall be deemed delivered:

- (1) upon personal service thereof upon the complainant or an adult member of the complainant's household,
- (2) upon the date received for or refused by the addressee, in the case of certified or registered U.S. Mail; or
- (3) on the second day after the deposit thereof for mailing, postage prepaid, with the U. S. Postal Service, if mailed by first class mail other than certified or registered mail.

If a resident is visually impaired, any notice hereunder delivered to such resident shall be in an accessible format.

XIV. MODIFICATION

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of the PHA, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the foregoing, any changes proposed to be made to this grievance procedure must provide for at least thirty (30) days advance notice to residents and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by the PHA before final adoption of any amendments hereto.

XV. MISCELLANEOUS

- A. Captions:** Captions or paragraphs headings set forth in this grievance procedure are for convenience of reference only and shall not be construed or interpreted to affect the substance of the paragraphs or sections so captioned
- B. Concurrent Notice:** If a resident has filed a request for a grievance hearing hereunder in a case involving PHA's notice of termination of tenancy, the complainant should be aware that the state law notice to vacate and the notice of termination of tenancy require under Federal law run concurrently. Therefore, if the hearing officer or hearing panel upholds PHA's action to terminate the tenancy and vacation of premises stated in the notice of termination delivered to complainant, or the delivery of the report of decision of the hearing officer or panel to the complainant.