

GRIEVANCE PROCEDURE

1. RIGHT TO A HEARING

Upon filing of a written request as provided herein, a complainant shall be entitled to a hearing before the Hearing Panel.

2. DEFINITIONS

- a. Complainant is defined as any tenant whose rights, duties, welfare or status are or may be adversely affected by local housing authority action or failure to act and who files a grievance or complaint with the local housing authority with respect to such action or failure to act.
- b. Grievance of Complaint is defined as any dispute with respect to LHA action or failure to act in accordance with lease requirements, or any LHA action or failure to act involving interpretation or application of the LHA's regulations, policies or procedures which affects the rights, duties, welfare or status of the complainant.

3. PROCEDURE PRIOR TO A HEARING

- a. Any grievance or complaint must be personally presented, if possible, to the LHA office or to the management office of the project in which the complainant resides so that the grievance may be informally discussed and settled without a hearing. The grievance or complaint must be signed by the complainant and filed in the office by him or his representative within a reasonable time, not in excess of five (5) 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 ground(s) upon which it is based; and (2) the action requested.

A copy of the complaint shall be retained by the complainant and a copy should be filed with the project manager. All complaints and/or copies must be date-stamped at time of receipt by the LHA.

- b. An answer in writing to each complaint, dated and signed by the project manager, or other appropriate official, shall be delivered or mailed to the complainant within a reasonable time (generally within five working days). A copy of the answer shall be filed with the complaint in the appropriate project office. The answer shall specify:

1. The proposed disposition of the complaint and the specific reasons therefore;
 2. The right of the complainant to a hearing; and
 3. The procedure by which a hearing may be obtained.
- c. If the complainant is dissatisfied with the proposed disposition of his complaint, as stated in the project manager's or other LHA official's answer, he may submit a written request, to the LHA or project management office, for a hearing. This written request shall be made within a reasonable time of the date of the answer to his complaint (generally ten (10) working days). The written request for a hearing must be date-stamped and filed in the appropriate LHA or project management office along with the complaint and answer. The Hearing Panel shall be advised promptly of the request by the appropriate LHA official: shall schedule the hearing as promptly as possible for a date, time and place reasonably convenient to the complainant; and shall inform the complainant thereof in writing.
- d. If the complainant does not request a hearing within the time period allowed in Subsection c above, he waives his right to the hearing, and the LHA's proposed disposition of the grievance will become final. This shall not, however, constitute a waiver of the complainant's right thereafter to contest the LHA's disposition of his grievance in an appropriate judicial proceeding.
4. COMPOSITION AND SELECTION OF THE HEARING PANEL. The Hearing Panel shall consist of five members; two selected in alphabetical order to serve on a rotating basis from a list of ten tenants elected for a period of one year by the tenant body; two appointed by the LHA; and one impartial and disinterested member (together with an alternate) chosen by the Hearing Panel members. In the event that the four Hearing Panel members cannot agree on the fifth impartial member, then such fifth member shall be appointed by the National Center for Dispute Settlement of the American Arbitration Association. The Chairman of the Hearing Panel shall be elected by the members of the Panel. Three votes shall be required for any decision by the Panel.
- a. The impartial or disinterested member of the Panel may not be an officer or an employee of the LHA or any of its projects, nor a tenant of the LHA.
 - b. The term of all members is one year. Vacancies in the tenant member list shall be filled by elections.

- c. There shall be no relatives of the complainant on the Panel which hears his complaint; nor shall any LHA officer or employee whose duties and responsibilities involve him in any way with the grievance at issue, sit as a member of the Hearing Panel for that particular hearing.
- d. For a period of two years after adoption of the Grievance Procedure by the LHA, the LHA shall provide reasonable reimbursement for out-of-pocket expenses for attendance at meetings by Panel members.

5. THE HEARING

- a. The parties shall be entitled to a fair hearing before the Hearing Panel and may be represented by counsel or another person chosen as a representative.
- b. The hearing shall be private unless complainant requests and the Hearing Panel agrees to a public hearing. This shall not be construed to limit the attendance of persons with a valid interest in the proceedings.
- c. Complainant may examine before the hearing and, at his expense, copy all documents, records and regulations of the LHA that are relevant to the hearing. Any document not made available, after request therefore by the complainant, may not be relied on by the LHA or the project management at the hearing. The complainant may request, in advance and at his expense, a transcript of the hearing.
- d. If the dispute is over the amount of rent or other charges which the local housing authority claims is due, the complainant shall deposit the amount in dispute in an escrow account pending settlement of the dispute by the Hearing Panel. If the complainant fails to do so, the Panel may determine that the complainant has waived his right to the Hearing. Such determination shall not constitute a waiver of complainant's right to thereafter contest the local housing authority's disposition of his grievance in an appropriate judicial proceeding.
- e. If a complainant fails to appear at a Hearing, the Panel may postpone the Hearing for five working days, or may make a determination that the complainant has waived his right to the Hearing. Such a determination shall not constitute a waiver of complainant's right to thereafter contest the LHA's disposition of his grievance in an appropriate judicial proceeding.

- f. At the hearing the complainant must make a prima facie case and then the burden of proof is on the LHA or project management to justify the action or inaction proposed by it in its answer to the complaint. The complainant may present evidence and arguments in support of his complaint, controvert evidence relied on by the LHA or project management, and confront and cross-examine all witnesses on whose testimony or information the LHA or project management relies. Hearings conducted by the Hearing Panel shall be informal, and any oral or documentary evidence, as limited however, to the facts and issues raised by the complaint and answer, may be received by the Hearing Panel without regard to whether that evidence would be admissible under rules of evidence employed in judicial proceedings.
6. DECISIONS OF THE HEARING PANEL
- a. The decision of the Hearing Panel shall be based solely and exclusively upon facts presented at the hearing and upon applicable LHA and HUD regulations. To the extent that the decision is not inconsistent with State Law, the United States Housing Act of 1937, as amended, HUD regulations and requirements promulgated there under, or the Annual Contributions Contract, and to the extent provided in subsection (f) below, the decision of the Hearing Panel shall be binding on the LHA.
 - b. If both parties agree to prepare a proposed decision to the Hearing Panel, each party shall submit same to the Hearing Panel for its consideration.
 - c. The Hearing Panel shall prepare its written decision, including a statement of findings and conclusions; as well as the reasons or basis therefore, upon all material issues raised by the parties. This shall be done within a reasonable time after the date of the hearing. Copies thereof shall be mailed or delivered to the parties and/or their representatives.
 - d. The written decision of the Hearing Panel, with all names and identifying references deleted, shall be maintained on file by the LHA and made available for inspection by a prospective complainant or his representative.
 - e. Any judicial decision or related settlement pertaining to the decision of the Hearing Panel shall also be maintained on file by the LHA and made available for inspection.

- f. If the decision is in favor of the complainant, the LHA shall promptly take all actions necessary to carry out such decision or refrain from any action prohibited by such decision unless the Board of Commissioners of the LHA determines and notifies the complainant in writing within thirty (30) days that the Hearing Panel has acted arbitrarily or exceeded its authority. In such event the Hearing Panel's decision may be judicially reviewed.
7. APPEALS FROM THE HEARING PANEL DECISION. A decision by the Hearing Panel, which is in favor of the LHA or project management and/or denies the complainant his requested relief in whole or in part, shall not constitute a waiver of, nor affect in any manner, whatever rights the complainant may have to a trial de novo in judicial proceedings which may thereafter be brought in the matter. In such judicial proceedings, the LHA shall, by stipulation or other appropriate means, be limited to invoking against the complainant the grounds originally relied on by the LHA in its proposed disposition of the complaint or grievance.
8. NOTICE TO VACATE PREMISES
 - a. At the time of the private conference required by Low-Rent Housing Handbook RHM 7465.1, the Tenant must be informed in writing of:
 - (1) The specific reason(s) for the proposed eviction; and
 - (2) His right to request a hearing upon the proposed eviction within five (5) working days from the date of the conference.
 - b. If the Tenant has requested a hearing on the proposed eviction and the Hearing Panel by its decision upholds the LHA's or project management's proposal to evict, an action to regain possession may not be commenced until after the Tenant's right to use and/or occupy the premises has been terminated by lawful notice. Such notice to vacate may not be given prior to the date on which the Hearing Panel's decision upholding the proposed eviction is delivered or mailed to the Tenant.
 - c. When such notice to vacate is given to the Tenant, he must be informed in writing that:
 - (1) If he fails to quit the premises within three days appropriate legal action (dependent on state law) will be brought against him;
 - (2) If suit is brought against him, he may required to pay Court costs and attorney fees incurred;

- (3) If he chooses to contest the legal action, the LHA or project management must prove that the reasons upon which it originally relied constituted good cause for eviction under the applicable law, rules and regulations.

9. SPECIAL NEEDS TENANTS

- a. Will be given the same rights as mentioned above.
- b. If a person with special needs is not satisfied with the results of the hearing, that person may submit a HUD Form 903, Housing Discrimination Complaint, to the Department of Housing and Urban Development. This form may be obtained from the Housing Authority of the City of Franklin's Administrative Office or may call 1-800-424-8590 to voice your complaint or request the form. Hearing Impaired persons may call the TDD number: 1-800-543-8294.