

GRIEVANCE POLICY & PROCEDURES

PURPOSE

This Grievance Policy and Procedures are intended to assure that LHAND Federal Public Housing Tenants are afforded an opportunity for a fair and open hearing if the Tenant disputes any LHAND action or failure to act involving the Tenant's lease with the LHAND or other LHAND rules or regulations which adversely affect the individual Tenant's rights, duties, welfare, or status.

The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes with the Authority's Management or Board of Commissioners. Issues of a policy nature may be addressed directly to the Management of the Authority whose decisions may be appealed to the LHAND Board of Commissioners. The Board of Commissioners meets monthly and the meeting is open to the public.

The Grievance Procedure is incorporated by reference in all Tenant dwelling leases and will be furnished to each Tenant and all resident organizations.

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

DEFINITIONS

A. LHAND -- Lynn Housing Authority & Neighborhood Development

B. Tenant -- adult person(s) (other than a live-in aide):

1. Who resides in the unit, and who executed the lease with the LHAND 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 household of the Tenant family residing in the dwelling unit.

C. Grievance -- Except as noted below, any dispute which:

1. A Tenant may have with respect to an LHAND action or failure to act in accordance with the individual Tenant's lease or LHAND regulations which adversely affect the individual Tenant's right, duties, welfare or status, and
2. A Tenant declares in writing to be a grievance.
3. Exclusions:
 - a. Disputes between Tenants.
 - b. Class grievances.
 - c. Any grievance concerning a termination of tenancy or eviction that involved:
 1. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the LHAND's public housing premises of other Tenants or employees of the LHAND, or
 2. Any violent or drug-related criminal activity on or off such premises, or
 3. Any criminal activity that resulted in felony conviction of a household member

D. Complainant -- Any Tenant whose grievance is presented in writing to the LHAND office in accordance with this policy and appropriate HUD regulations, and whose dispute is grievable under this procedure.

E. Hearing Officer -- An impartial person appointed by the LHAND, other than a person who made or approved the LHAND action under review or a subordinate of such person, to hear grievances and render a decision with respect thereto.

F. Resident Organization -- An organization of residents, which may also include a resident management corporation.

INFORMAL SETTLEMENT OF GRIEVANCE

Any grievance shall be personally presented within the time specified by the LHAND's written notice of the adverse action, or, if no such time is specified, within ***thirty (30) days*** of the LHAND action or failure to act giving rise to the dispute. The grievance must be presented in writing and be fully legible. The presentation of the grievance shall be made directly to the LHAND at its management office of the project in which the Complainant resides.

An attempt will be made to settle the grievance informally, by discussion and without a hearing. The LHAND will notify the Tenant of a time and place for this informal review of the basis of the Tenant complaint. The Tenant may bring legal counsel to an informal grievance review.

If the Tenant avails themselves of the informal process, a summary of the discussion shall be prepared ***within five (5) work days***. One copy shall be given to the Complainant and one retained in LHAND's Tenant file. The summary shall specify:

1. The names of the participants;
2. Date(s) of meeting;
3. The nature of the proposed disposition of the grievance and the specific reason therefore; and
4. The procedures by which a hearing may be obtained if the Tenant is not satisfied.

EXPEDITED GRIEVANCE PROCEDURE

The LHAND may conduct an Expedited Grievance Procedure for any grievance concerning a termination of tenancy or eviction that involves:

1. any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the LHAND's public housing premises by other Tenants or employees of LHAND, or
2. any violent or drug related criminal activity on or off such premises, or
3. any criminal activity that resulted in felony conviction of a household member.

In the case of a grievance under the expedited grievance procedure, the informal settlement of grievances listed in this policy is not applicable.

For each of these situations, the expedited grievance procedure applies to members of the household and their guests. If the LHAND seeks an expedited grievance procedure, it will notify the Tenant of the pending adverse action. This notice of adverse action can serve as a Notice to Quit under federal and state law although an eviction proceeding in court cannot occur until the Tenants right to a grievance hearing has either been exercised in a manner consistent with this policy, or the right to grieve has lapsed.

OBTAINING A HEARING

A. Request for Hearing

The Complainant shall submit a written request for a hearing to the LHAND at its management office of the project in which the Complainant resides ***within fifteen (15) calendar days*** after receipt of the summary of discussion pursuant to this policy. The written request shall specify:

1. The reason for the grievance, and
2. The action or relief sought.

The grievance must be stated in terms specifying how the LHAND's action or failure to act adversely affects the Tenant's rights, duties, welfare, or status in violation of the Tenant's lease or other LHAND rules or regulations.

B. Hearing Officer

The Complainant will have the option of a hearing before an individual, the Hearing Officer. The Hearing Officer will be selected by the LHAND from a pool of pre-qualified individuals who may be an officer or employee of the LHAND and will in all cases be a neutral individual.

Efforts will be made to assure that the person selected is not a friend, nor enemy, of the Complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

C. Scheduling of Hearings

The hearing will be scheduled at a mutually convenient time for the Officer, the Complainant and LHAND staff, but in no event longer than **thirty (30) days** after a request for a Hearing. The Tenant has the option of a public hearing. If a private hearing is sought, the Tenant is limited to bringing no more than two (2) individuals who are not material to the presentation of information to the Hearing Officer.

A written notification specifying time, place and the procedures governing the hearing shall be delivered to the Complainant and appropriate LHAND official.

D. Failure to Request a Hearing

If the Complainant does not request a hearing within the required time frame, then the disposition of the grievance specified in the summary of the informal discussion prepared in accordance with this policy will become final. Not requesting a Hearing will not constitute a waiver by the Complainant of his/her right to contest the LHAND's action in disposing of the grievance in an appropriate judicial proceeding.

E. Hearing Prerequisite

All grievances will be presented in writing pursuant to the informal procedure prescribed in this policy as a condition to a hearing under this section. However, if the Complainant shows good cause to the Hearing Officer why s/he failed to proceed in accordance with the outlined procedures, the provisions of this subsection may be waived by the Hearing Officer.

F. Escrow Deposit

Before a hearing is scheduled involving a dispute in the amount of rent which the LHAND claims is due, the Tenant must establish an escrow account for the amount in dispute and provide proof of the existence of the account. All payments due prior the month in which the alleged act or failure to act took place must be paid in full. The Complainant shall, thereafter, deposit the monthly rent due in the escrow account each month until the grievance is resolved by a decision of the Hearing Officer.

LHAND may require proof that such deposits are being made. Unless this requirement is waived by the LHAND, the failure to make such payments shall result in a termination of the Complainant's right to grieve under this procedure. Failure to make the above-designated payment shall not constitute a waiver of any right the Complainant may have to contest the LHAND's disposition of the grievance in an appropriate judicial proceeding.

PROCEDURES GOVERNING THE FORMAL HEARING

A. Due Process -- 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 LHAND that are relevant to the adverse action. Any document not so made available after request therefore by the Complainant may not be relied on by the LHAND at the hearing;

2. The right to be represented by counsel or other person chosen as his/her representative; and to have such person make statements on the Tenant's behalf.
3. The right to a private or public hearing according to the Complainant's preference;
4. The right to present evidence and arguments in support of his/her grievance, to controvert evidence relied on by the LHAND, and to confront and cross-examine all witnesses on whose testimony or information the LHAND relies; and
5. A decision based solely and exclusively upon the facts presented at the hearing.

B. Prior Determination on the same Issue is Binding -- The Hearing Officer may render a decision without proceeding with a hearing if it is determined that the issue has been previously decided in another proceeding.

C. Failure to Appear -- If the Complainant or the LHAND fails to appear at a scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for a period not to exceed five (5) work days or may make a determination that the party has waived his/her right to a hearing. Both the Complainant and the LHAND shall be notified of the determination by the Hearing Officer, provided that a determination that the Complainant has waived his/her right to a hearing shall not constitute a waiver of any right the Complainant may have to contest the LHAND's disposition of the grievance in an appropriate judicial proceeding.

D. Access to Records -- The Complainant or the LHAND may arrange, in advance, and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested person not a party to the grievance may purchase a copy of such transcript with all names and identifying references deleted.

E. Accommodation of persons with disabilities -- The LHAND must 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. If the Tenant is visually impaired, any notice to the Tenant which is required under this procedure must be in accessible format.

SCOPE OF JURISDICTION OF THE HEARING OFFICER

A. The Complainant must first make a showing of entitlement to the relief sought and thereafter the LHAND must sustain the burden of justifying the LHAND action or failure to act against which the grievance is directed.

B. The relief sought by the Complainant must be relevant to the aggrieved act or failure to act and must not be inconsistent with:

1. Local, State, or Federal law;
2. Tenant's lease;
3. LHAND rules or regulations;
4. The LHAND's Annual Contributions Contract with either HUD or DHCD, depending on the program effected; or
5. HUD regulations applicable to LHAND.

C. The hearing shall be conducted informally by the Hearing Officer 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 proceedings. The Complainant, council, and other participants or spectators are required to conduct themselves in an orderly fashion. Private Hearings are limited to three spectators of the Tenants choosing. Only LHAND staff directly involved with the Hearing will attend a private hearing. Failure to comply with the directions to remain orderly may result in exclusion from the proceedings.

D. The Hearing Officer will conduct a hearing in order to determine whether the LHAND's action or failure to act is consistent with the Tenant's lease with the LHAND or with other applicable LHAND rules or regulations, and whether the LHAND is justified in proceeding with its action.

DECISION OF THE HEARING OFFICER

A. The Hearing Officer will prepare a written decision together with the reasons therefore, within ***fifteen (15) work days*** after the hearing. A copy of the decision shall be sent to the Complainant and the LHAND. The LHAND 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 LHAND and made available for inspection by a prospective Complainant or his/her representative.

B. The decision of the Hearing Officer in favor of the Complainant must specify which provision of the Tenant's lease or other regulation has been violated. The remedy granted by the Hearing Officer may not violate:

1. Local, State or Federal law;
2. Tenant's lease;
3. LHAND rules or regulations;
4. The LHAND's Annual Contributions Contract with either HUD or DHCD, depending on the program effected; or
5. HUD regulations applicable to LHAND.

C. The decision of the Hearing Officer will be binding on the LHAND which will take all actions or refrain from any action, necessary to carry out the decision unless the

LHAND Board of Commissioners determines within a reasonable time and promptly notifies the Complainant of its determination that:

1. The grievance does not concern LHAND action or failure to act in accordance with or involving the Complainant's lease or LHAND regulations, which adversely affect the Complainant's rights, duties, welfare or status;
2. The decision of the hearing officer is contrary to applicable Federal, State or local law, HUD regulations, requirements of the annual contributions contract between HUD and the LHAND.

D. A decision by the Hearing Officer or Board of Commissioners in favor of the LHAND 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 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. (In other words, if the Tenant loses, he or she can still go to court.)

LHAND EVICTION ACTIONS

If a Tenant has requested a hearing in accordance with this policy and HUD regulations on a complaint involving an LHAND Notice to Quit, and the Hearing Officer upholds the LHAND's action to terminate the tenancy, the LHAND may commence an appropriate eviction action against him/her and s/he may be required to pay court costs and attorney fees if the Tenant fails to vacate the unit immediately.