

GREIVANCE PROCEDURES AND CONDITIONS

ABINGDON REDEVELOPMENT AND HOUSING AUTHORITY GRIEVANCE PROCEDURES

A. Applicability

The Abingdon Redevelopment and Housing Authority, hereafter referred to as ARHA, grievance procedure shall be applicable to all individual grievances as defined below, between the resident and the ARHA. The ARHA will not offer grievance hearings for any grievance concerning a termination of tenancy or eviction that involves:

1. Any criminal activity that threatens the health, safety, or right of peaceful enjoyment of the other residents or employees of the ARHA, or
2. Any drug-related criminal activity on or near the ARHA assisted premises.

B. Definitions

1. "Grievance" shall mean any dispute which a resident may have with respect to ARHA action or failure to act in accordance with the individual resident's lease or ARHA regulations which adversely affect the individual resident's rights, duties, welfare or status.
2. "Complaint" shall mean any resident whose grievance is presented to the ARHA or at the development management office in accordance with this procedure.
3. "Elements of Due Process" shall mean an eviction action or a termination tenancy in a State or local court in which the following safeguards are required:
 - (a) Adequate notice to the resident of the grounds of termination the tenancy and for eviction;
 - (b) Right of the resident to be represent by counsel;
 - (c) Opportunity for the resident to examine all relevant documents, records, and regulations of the ARHA prior to the trial for the purpose of preparing a defense;
 - (d) Opportunity for the resident to refute the evidence presented by the ARHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have;
 - (e) A decision on the merits.
4. "Hearing Officer" shall mean a person selected in accordance with this policy to hear grievances and render a decision with respect thereto.

5. "Resident" shall mean the adult person over the age of 18 (or persons) [other than a live-in aide] who resides in the unit, and who executed the lease with the owner as lessee of the dwelling unit, or, if no such person now resides in the unit, who resides in the unit, who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit.
6. "Resident Organization" means an organized body of residents with an adopted set of by-laws, a democratic body, and elected officers. It shall include a resident management corporation.

C. Procedure Prior to a Hearing

Any grievance shall be personally presented, either orally or in writing to the ARHA office so that the grievance may be discussed informally and settled without a hearing. The grievance or complaint must be submitted within a reasonable time, not in excess of ten (10) working days of the action which is the basis of the grievance. A summary of such discussion shall be prepared within a reasonable time, not in excess of five (5) working days. One copy shall be given to the complainant and one copy retained in the ARHA resident file. The summary shall specify the names of the participants, dates of meetings, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing under this policy may be obtained if the complainant is not satisfied. The summary shall be delivered to the complainant in accordance with Section 17 of the lease.

D. Procedure to Obtain a Hearing

1. The complainant shall submit a written request for a hearing to the ARHA office within a reasonable time after receipt of the summary, not in excess of five (5) calendar days. The written request shall specify:
 - (a) The reasons for the grievance, and;
 - (b) The action or relief sought.
2. A grievance hearing shall be conducted by an impartial person appointed in accordance with this policy. The Hearing Office shall consist of a person other than the person who made or approved the ARHA action under review or a subordinate of such person. The Hearing Office may consist of a person or persons who may be an officer or employee of the ARHA.

The Executive Director or his/her designee of the ARHA shall select a Hearing Officer. Careful consideration will be given in the selection of the Hearing Officer.

The Executive Director is not prohibited from selecting himself/herself provided that he/she is impartial and was not the person who made or approved the ARHA's action.

Prior to final selection of the Hearing Officer, the ARHA shall notify the resident organizations, when and if one exists, of its decision and allow for comment. Resident organizations shall have five (5) calendar days from the date of the notice to submit comments. Any recommendations or comments received shall be considered by the ARHA in making the final selection.

The ARHA shall have ten (10) calendar days after receipt of a request for a hearing in which to make a final selection of a Hearing Officer.

3. If the complainant does not request a hearing in accordance with D (1) above, then the ARHA's disposition of the grievance under this policy shall become final.
4. All grievances shall be personally presented orally or in writing pursuant to the informal procedure prescribed in Section C above as a condition precedent to a hearing under this section. However, if the complainant shall show good cause why he/she failed to proceed in accordance with Section C to the Hearing Officer, the provisions of the subsection may be waived by the Hearing Officer.
5. Before a hearing is scheduled in any grievance involving the amount of rent which the ARHA claims is due, the complainant shall pay to the ARHA, to be held in escrow, an amount equal to the amount of the rent due and payable as on the first of month proceeding 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, held by the ARHA, monthly until the complaint is resolved by decision of the Hearing Officer. The ARHA shall hold in escrow all deposits, on behalf of the resident, pending resolution of the complaint. These requirements may be waived, by the ARHA in extenuating circumstances. Unless so waived, the failure to make such payment shall result in a termination of the grievance procedure.
6. Upon complainant's compliance with subsections 1, 3, 4 and 5 of this section, a hearing shall be scheduled by the Hearing Officer promptly for a time and place reasonably convenient to both the complainant and the ARHA. A written notification specifying the time, place and procedures governing the hearing shall be delivered to the complainant and the appropriate ARHA official in accordance.

E. Procedure Governing the Hearing

1. The hearing shall be held before a Hearing Officer, as determined by the ARHA.

2. The complainant shall be afforded a fair hearing, which shall include:
 - (a) The opportunity to examine, before the grievance hearing, any ARHA documents, including records and regulations, which are directly relevant to the hearing. The complainant shall be allowed to copy any such document at the complainant's expense. If the ARHA does not make the document available for examination upon such request by the complainant, the ARHA may not rely on such document at the grievance hearing;
 - (b) 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 complainants behalf;
 - (c) The right to a private hearing unless the complainant requests a public hearing
 - (d) The right to present evidence and arguments in support of the complainant's grievance, to controvert evidence relied on by the ARHA or development management, and to confront and cross-examine all witnesses upon whose testimony or information the ARHA or development management relies; and
 - (e) A decision based solely and exclusively upon the facts presented at the hearing.
3. 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.
4. If the complainant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the complainant appears within 30 minutes of the scheduled time, the hearing will be held. If the complainant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear. If the complainant fails to appear and was unable to reschedule the hearing in advance, the complainant must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the complainant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities. "Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.
5. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the ARHA must sustain the burden of justifying the ARHA's action or failure to act against which the complaint is directed.

6. The hearing shall be conducted informally by the Hearing Officer 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 of evidence applicable to judicial proceedings. The Hearing Officer shall require the ARHA, 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 an order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly part and granting or denial of the relief sought, as appropriate.
7. The complainant or the ARHA 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 transcript.
8. The ARHA must provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants. If the complainant is visually impaired, and notice to the complainant who is required under this section must be in an accessible format.

F. Expedited Grievance Procedure

1. The expedited grievance procedure shall apply only to those grievances concerning a termination of tenancy or eviction that involves:
 - (a) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the ARHA, or
 - (b) Any drug-related criminal activity on or near the ARHA's assisted premises.
2. When the ARHA notifies the resident of a termination of tenancy or eviction that involves the above referenced violations, the ARHA shall also include in that notice that any grievance hearing requests shall be in accordance with the expedited grievance procedure.
3. The complainant shall have three (3) calendar days from the date of the notice in which to file a written request for a hearing to the ARHA or the development office. The written request shall specify:
 - (a) The reason for the grievance, and
 - (b) The action or relief sought.

4. The complainant shall NOT have the grievance informally discussed as outlined in Section 3 of this policy.
5. Within three (3) days of receipt by the ARHA of the complainant's request for a hearing, the Executive Director or his/her designee shall notify the resident organizations of his/her selection of a Hearing Officer . The resident organizations shall have three (3) calendar days from the date of the notice to submit comments as to the selection of the Hearing Officer. Upon expiration of the three (3) day comment period, the Executive Director or his/her designee shall have three (3) working days to review the comments and make a final selection as to the Hearing Officer.
6. Upon complainants' compliance with sub-section C of this section, a hearing shall be scheduled by the Hearing Officer promptly for a time and pace reasonably convenient to both the complainant and the ARHA, not in excess of three (3) working days of the selection of the Hearing Officer. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the complainant and the appropriate ARHA.

G. Decisions of the Hearing Officer

1. The Hearing Officer shall prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing, but not in excess of ten (10) business days for a standard hearing and not in excess of three (3) business days in the case of an expedited grievance hearing. A copy of such decision shall be sent to the complainant and the ARHA. The ARHA shall retain a copy of the decision in the complainant's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the ARHA and made available for inspection by a prospective complainant, his/her representative, or the Hearing Officer .

2. The decision of the Hearing Officer shall be binding on the ARHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the ARHA's Board of Commissioners determines within a reasonable time, not to exceed thirty (30) days, and promptly notifies the complainant of its determination, that:
 - (a) The grievance does not concern ARHA action or failure to act in accordance with or involving the complainant's lease or ARHA regulations, which adversely affect the complainant's rights, duties, welfare or status;
 - (b) 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 ARHA.

3. A decision by the Hearing Officer, or Board of Commissioners in favor of the ARHA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver or, 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.

H. Actions Not A Waiver of Right of Appropriate Judicial Proceedings

Any action or failure to act by the complainant in any part of this policy shall not constitute a waiver by the complainant of his/her right thereafter to contest the ARHA's actions in disposing of the complaint in an appropriate judicial proceeding.

I. Amendments

Any amendments that need to be made to these procedures shall only be made after a thirty (30) day comment period is allowed for residents and then only after the ARHA has considered the comments received.