

APPENDIX “C”

GRIEVANCES

It shall be the general policy of the Owner to receive complaints from public housing residents who may feel that their rights, duties, welfare or status have been adversely affected by the Owner’s action or failure to act. Grievance is defined as any dispute with respect to the Owner’s action or failure to act in accordance with lease requirements, application of regulations, policies or procedures.

The Owner shall provide reasonable accommodations for Residents with disabilities to participate in both informal and formal grievance hearings.

Where grievance procedures are applicable, no tenancy shall terminate or, with respect to non-eviction grievances, no adverse action taken until after the grievance process is complete (including hearings held and decisions rendered) or until the time for the Tenant to request a grievance hearing has expired.

In accordance with applicable federal regulations, this grievance procedure shall be applicable to all individual grievances between Tenant and the Owner with the following two **exceptions**:

- A. This grievance procedure is **not applicable** to disputes between Tenants not involving Owner, or to class grievances involving groups of Tenants. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between Tenants, or groups of tenants and Owner.
- B. Owner has elected that this grievance procedure shall **not be applicable** to any termination of tenancy or eviction that involves:
 - i. Any criminal activity that threatens the health, safety or right of peaceful enjoyment of the premises by other residents or employees, or
 - ii. Any drug related criminal activity on or near such premises.

In cases involving these criminal activities, the Owner may evict the occupants of the dwelling unit through a judicial eviction without following the grievance procedure outlined in this document.

I. HEARING OFFICER

A Hearing Officer will be selected by the Owner from a pool of at least three individuals that is updated annually. The pool of potential hearing officers shall serve for one year beginning on January 1st. The Owner will make a good faith effort, beginning on or about October 1st of each year for the upcoming year, to establish the pool of potential Hearing Officers by working with the LAC to identify mutually acceptable candidates for the pool. However, if the Owner and LAC do not reach agreement on the pool of potential Hearing Officers by November 15, the Owner may select the pool of potential Hearing Officers to serve the following calendar year. The initial pool of applicants should be identified 30 days prior to the first tenancy at the development. On or about 90 days before the expected first tenancy the Owner will begin discussions with the LAC in a good faith effort to identify mutually acceptable candidates for the pool. However, if the Owner and LAC do not reach agreement 30 days before the first tenancy, the Owner may select the members of the initial pool of potential Hearing Officers.

II. PROCEDURES

Step 1: Request for an informal discussion of grievance.

A request for an informal discussion of the grievance must be presented personally, either orally or in writing, to the Site Manager's office. The Owner shall provide to the Tenant a dated receipt of the request for an informal grievance hearing and a copy will be placed in the Tenant's file. The request may be simply stated, but shall be specific, including: 1) reason for the grievance; and 2) the action requested. The Owner shall provide to the Tenant a dated receipt of the request for an informal discussion and a copy will be placed in the Tenant's file. In the case of an eviction action, the grievance must be submitted within fourteen (14) days of the action or failure to act (which is the basis for the grievance). In the case of a non-eviction action, the grievance must be submitted within thirty (30) days of the action or failure to act (which is the basis for the grievance). The Site Manager, or designated Owner representative, shall schedule a meeting with the Resident within five (5) days of the request to informally discuss the grievance and attempt to settle the grievance without a formal grievance hearing. A written response outlining the final position of the Owner shall be provided to the complainant within five (5) days of the informal discussion. This notice shall include a form for the Tenant to request a formal grievance hearing.

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Step 2: Request for a formal grievance hearing.

- A. If the complainant is not satisfied with the response or the proposed disposition of his/her complaint, or protests his/her proposed eviction, they may request a hearing. This request must be in writing, presented personally to the Site Manager's office within seven (7) days of receipt of the Owner's disposition of the informal meeting, and will be date stamped. The request may be simply stated, but shall be specific, 1) the reason for the grievance; and 2) the action requested. The Owner shall provide to the Tenant a dated receipt of the request for a grievance hearing and a copy will be placed in the Tenant's file.
1. If the dispute is over rent which Owner claims are due, the complainant shall deposit with Owner an amount equal to one month's rent as stipulated in the Tenant's most recent 50058 form. This amount will be placed in escrow pending the settlement of the dispute. If the complainant fails to do this, he/she will waive their right to a grievance hearing.
 2. Such failure shall not constitute a waiver of complainant's right to thereafter contest Owner's disposition of his grievance in an appropriate judicial proceeding.
- B. The complainant will be entitled to a fair hearing and may be represented by counsel or other representative. The hearing shall be private, unless the complainant requests a public meeting. Prior to the hearing, the complainant may examine the complainant's file and all documents, records, and regulations of the Owner that are relevant to the grievance. The request for such records and documents must be made at least 72 hours before the scheduled hearing.
1. Any document specifically requested but not made available five days after the request has been made or twenty-four (24) hours prior to the hearing, whichever comes first, may not be relied upon by Owner at the hearing.
 2. The Owner or Complainant 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
- C. The procedure of the grievance hearing shall be
1. All parties involved shall be notified, in writing, of the time and place of the hearing and be given a description of the hearing procedures afforded the Tenant within seven (7) days of the request for a hearing.

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The grievance hearing must be held within fourteen 14 days of the request for a grievance hearing;

2. The Tenant may arrange, in advance of, or following the hearing, and at the expense of the Tenant, a copy of the record of the hearing. Any interested party may purchase a copy of any transcript or record of the hearing at his/her own expense.
 3. The Hearing Officer will be responsible to send the appropriate parties, a written decision on the grievance hearing;
 4. All witnesses shall be sworn in by the Hearing Officer;
 5. An audio-taped recording shall be made of the grievance hearing and shall be kept the later of 90 days or until any litigation pertaining to the grievance is settled;
 6. The Hearing Officer shall decide which party shall present their case first. Presentations by the parties may include, but is not limited to, documents, witnesses, and any other types of evidence. Each party will be given an opportunity to controvert evidence the other party is relying on and cross-examine any witnesses presented by the opposite party;
 7. Oral or documentary evidence pertinent to the facts and issues raised by the Tenant or Owner may be received without regard to admissibility under rules of evidence applicable to judicial proceedings;
 8. The Hearing Officer may question either party for clarification; and
 9. After Owner and the complainant have presented all facts, the Hearing Officer shall end the hearing and dismiss everyone in order to make a decision on the complaint. The decision shall be based solely and exclusively upon the facts presented at the hearing.
- D. If Owner or complainant fails to appear at a hearing, the Hearing Officer may make a determination to postpone the hearing for no more than five (5) business days or may make a determination that the party has waived their rights to a grievance hearing.
- E. If the complainant does not request a hearing within the period set forth in subsection A and B above, he/she shall waive their right to the hearing and Management's proposed disposition of the grievance will become final. This shall not, however, constitute a waiver of the complainant's right therefore to contest Owner's disposition of his/or her grievance in an appropriate judicial proceeding.

III. DECISIONS

The decision of the Hearing Officer shall be final, however, it shall not constitute a waiver of, or affect any rights the Tenant grievant may have to a trial *de novo* in a court of law regarding the same matter brought up in the grievance. The decision of the Hearing Officer will be based upon facts presented at the hearing, and upon applicable

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Owner and HUD regulations. The decision may not be inconsistent with State law or the United States Housing Act of 1937, as amended, HUD regulations and requirements promulgated, or the Annual Contributions Contract.

- A. The Hearing Officer shall prepare a written decision and place in the mail to the complainant and Owner within five (5) working days of the conclusion of the hearing, including a statement of findings and conclusions, and make available their file to Owner and Resident for documentation. Copies of the decision shall also be mailed or delivered to the parties and/or their representatives.
- B. If the decision is in favor of the complainant, Owner shall promptly take action to carry out the decision or refrain from any action prohibited by such decision.
- C. If the decision is in favor of Owner, Owner shall be free to pursue its remedies.

IV. GRIEVANCE HEARINGS FOR RESIDENTS GOVERNED BY THE RELOCATION RIGHTS CONTRACT (“RRC APPLICANTS”)

- A. In addition to the rights provided under this policy, an RRC applicant may enforce any of the guarantees contained in the Relocation Rights Contract through the Standard CHA grievance process. See RRC, Section 11(b).
- B. In addition, any RRC applicant who: (1) is denied admission to the development for failure to meet the property specific requirements or failure to engage in activities to meet the property specific requirements; or (2) is determined to have fallen out of compliance with the property specific requirements after one year of being allowed to meet such requirements, may request a formal grievance hearing to review the Owner’s decision.