

Grievance Policy And Procedures For Housing Project Residents

Tlingit-Haida Regional Housing Authority

Adopted by the Board of Commissioners on January 20, 2012

This edition of the Grievance Policy and Procedures was adopted by the Board of Commissioners of the Tlingit-Haida Regional Housing Authority by Resolution No12-02 on January 20, 2012. This document, and its subsequent amendments, supersede all prior editions of the Grievance Policy and Procedures.

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**GRIEVANCE POLICY AND PROCEDURES FOR HOUSING
PROJECT RESIDENTS**

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I. PURPOSE

The purpose of the Grievance Policy is to set forth the requirements, standards, and procedures for handling and reviewing Grievances of Housing Project Residents including Tenants of the Low Income Housing Tax Credit Projects, Low Rent and Home Ownership Assistance Projects, Senior Independent Living Housing Projects and Residents of the Transitional Housing Units that are presented to the Tlingit-Haida Regional Housing Authority (“T-HRHA”); to assure T-HRHA Tenants and/or Residents a reasonable review and, if requested, a hearing on their Complaint regarding T-HRHA’s action or failure to act that the Tenants and/or Residents believe adversely affect the Tenants and or Residents’ rights, duties, welfare, or status.

The Grievance Policy, set forth herein, has been adopted by the Board of Commissioners of the T-HRHA and is incorporated by reference in all dwelling contracts between the T-HRHA and its residents.

This Policy should also consider, to the extent applicable, pertinent regulations found in: the Federal Grievance Regulations (24 CFR 966.51), Title VII of the Civil Rights Act of 1964, Fair Housing Act, Section 3 of the Housing and Urban Development Act of 1968 (as amended by the Community Development Act of 1974), Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act, Alaska State Law, and any applicable legislation protecting the individual rights of Tenants, applicants or staff which may be subsequently enacted.

II. DEFINITIONS

Appellant: any complainant who appeals a decision.

Complainant: any HPR filing a Complaint or dispute with the T-HRHA to be handled or reviewed in accordance with the procedures set forth in these Grievance Procedures.

Grievance: any Complaint or dispute an HPR may have with respect to T-HRHA action or failure to act that allegedly affects that resident’s contract with the T-HRHA or with respect to regulations a resident believes adversely affects that resident’s rights, duties, welfare, or status.

Hearing Officer: an official of the T-HRHA designated by the T-HRHA to hear Grievances and render a decision with respect thereto.

Hearing Panel: a three-member panel selected to hear a Grievance and render a decision with respect thereto.

Housing Project Resident: any person residing in or having claim to and under contract with T-HRHA for any house, apartment, or building that is managed by T-HRHA at the time of the alleged incident initiating a Grievance (hereinafter “HPR”).

III. APPLICABILITY

- A. These Grievance Procedures shall apply to all individual Grievances between the HPR and the T-HRHA, except as excluded herein.
- B. Exclusions. These Grievances Procedures shall not apply to:
 - 1. Matters related to an eviction or termination of tenancy;
 - 2. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other HPRs or T-HRHA employees;
 - 3. Any violent or drug related criminal activity on or off such premises;
 - 4. Any criminal activity that resulted in a felony conviction of a household member;
 - 5. Disputes between residents that do not concern the T-HRHA;
 - 6. Class Grievances;
 - 7. As a means of contesting the policies of the Department of Housing and Urban Development; and
 - 8. Disputes through which HPRs attempt to effect changes in the T-HRHA’s policies, to the extent that the desired changes are not required by applicable law or contract.

IV. INITIAL CONSIDERATION

Any Grievance must be presented in writing, and be personally presented, if possible, to the T-HRHA so that the Grievance may be discussed by the Administrative Officer of T-HRHA and settled, if possible, without a hearing. All Grievances, with respect to recertification, or other T-HRHA action, must be presented to the T-HRHA within twenty (20) business days of the date of the notice of the T-HRHA’s proposed action. The Administrative Officer may waive this deadline if good cause for the delay exists and the interests of third parties will not be prejudiced.

All Grievances regarding an alleged failure by the T-HRHA to remedy a condition of the HPR's home must be preceded by written notice to the T-HRHA of the condition within sixty (60) days of the HPR's discovering the problem. Failure to provide written notice, or failure to give notice of the problem within sixty (60) days of discovery, may be waived by the Administrative Officer if good cause exists for the failure or delay. T-HRHA will respond within forty (40) days of receiving the notice of the condition. Subject to the applicable statute of limitations and the notice requirements of this paragraph, a Grievance may be filed at any time that the HPR believes that the T-HRHA is failing to handle adequately the complained-of condition.

The HPR and the Administrative Officer shall attempt to resolve the Complaint or dispute at this initial consideration. The Administrative Officer shall personally or through a qualified designee hold the initial consideration at the HPR's place of residence if a site inspection or personal visit will materially aid the Administrative Officer's decision. If the HPR requests a site inspection or personal visit, and the Administrative Officer declines the request, the reasons for denial shall be stated in writing in the summary of decision described below. Part or all of the initial consideration may be held by telephone.

The Administrative Officer shall prepare a summary of decision within five (5) business days of the initial consideration; the original shall be sent to the HPR and one copy retained in the T-HRHA's file concerning the HPR. The summary shall specify:

- A. The names of the participants;
- B. the dates of the initial consideration meeting;
- C. the nature of the Complaint;
- D. the proposed disposition of the Complaint and specific grounds therefore;
- E. the right of the HPR to a hearing; and
- F. the procedure for obtaining a hearing if the HPR is not satisfied.

V. PROCEDURE TO OBTAIN A HEARING

- A. Request. An Appellant, who is dissatisfied with the Administrative Officer's decision, as stated in the summary of decision, shall submit a written request for a hearing to the T-HRHA within ten (10) days after the mailing of the summary of decision pursuant to Section IV above. This written request for a hearing must specify the reasons for the Grievance and the action or relief sought, be date stamped and filed in the T-HRHA office and addressed to the attention of the President/CEO. The President/CEO shall promptly advise the T-HRHA Board of Commissioners ("BOC") of the written request.

- B. Appointment. The President/CEO shall appoint a Hearing Officer or three-member Hearing Panel within thirty (30) days of receiving the hearing request. Whether to appoint a Hearing Officer or Hearing Panel shall be in the sole discretion of the President/CEO.
- C. Impartiality. The Hearing Officer or Panel members shall be impartial. Impartiality requires that the Hearing Officer not be a current employee, Commissioner, or Officer of the T-HRHA, or personally biased against the complainant. The Hearing Officer's impartiality is not affected by the possibility that he or she may be compensated by the T-HRHA for acting as Hearing Officer, may have acted as a Hearing Officer in prior Grievance hearings for the T-HRHA, may work for similarly situated entity, or may be a former employee or contractor of the THHRA. The Hearing Officer may have expertise or experience in law, construction, engineering, public or Indian housing, or other fields relevant to the Grievance.

Hearing Panel members are not required to be impartial as defined above if the Panel is established according to the following procedure: the T-HRHA selects a Panel member, the complainant selects a Panel member, and the two Panel members thus selected agree upon a third member.

The Hearing Officer or members of the Hearing Panel shall base their decision on the evidence presented during the hearing.

- D. Waiver. A complainant who does not request a hearing in accordance with Section V(A) waives the right to a hearing, and the Administrative Officer's summary of decision becomes the final disposition of the Grievance. However, this waiver shall not constitute a waiver of the HPR's rights thereafter to contest the T-HRHA's disposition of his Grievance in an appropriate judicial proceeding.
- E. Hearing prerequisite. All Grievances shall be presented in writing and be personally presented, if possible, pursuant to the initial reconsideration procedure prescribed in Section IV above as a condition precedent to the hearing under this Section provided that if the applicant shall show good cause why he or she failed to proceed in accordance with Section IV, the Hearing Officer or Hearing Panel may waive compliance with that Section.
- F. Escrow Deposit. Before a hearing is scheduled in any Grievance concerning the amount of rent or other charges that the T-HRHA claims is due, the complainant shall deposit the amount in dispute in an escrow account pending settlement of the dispute by the Hearing Office or Hearing Panel. The T-HRHA may waive these requirements in extenuating circumstances. Unless so waived, the failure to make such payments shall result in a termination of the Grievance procedure provided that failure to make payments shall not constitute a waiver of any right the complainant may have to contest the T-HRHA's disposition of the Grievance in any appropriate judicial proceeding.

If a Grievance does not concern rent or other charges, payment of rent or other charges must be made in the normal manner without regard to the pending hearing. In all cases, rent and other charges must remain current until the decision of the Hearing Officer or Hearing Panel is announced, and the complainant shall continue paying rent and other charges until the premises are vacated as set forth in the complainant's contract with the T-HRHA.

- G. Schedule of Hearing. Upon the Appellant's compliance with Section V(A), (C), and (D) above, the Hearing Officer shall schedule a hearing as promptly as possible at a date, time and place reasonably convenient to both the Appellant and the T-HRHA, and shall inform the Appellant thereof in writing. The hearing shall be held in the community where the Appellant's T-HRHA house is located unless the Hearing Officer makes a written finding that the Grievance does not involve any disputed issue of material fact. Upon that finding, the Hearing Office may, at the Appellant's option, hold the hearing either telephonically or in Juneau.

VI. PROCEDURES GOVERNING THE HEARING

- A. The Appellant shall be entitled to a fair hearing providing the basic safeguards of due process, which shall include:
1. The opportunity to examine before the hearing and, at the Appellant's expense, to copy all documents, records and regulations of the T-HRHA that are relevant to the hearing. Any document so requested and not made available to the Appellant may not be relied on by the T-HRHA at the hearing;
 2. The right to be represented at the hearing by any person of the Appellant's choice;
 3. The right to private hearing unless the Appellant requests a public hearing;
 4. The right to present evidence and arguments in support of the Complaint, to controvert evidence presented by the T-HRHA, and to confront and cross-examine all witnesses whose testimony the T-HRHA presents; and
 5. A decision based solely upon the evidence presented at the hearing.
- B. The Hearing Officer may render a decision without proceeding with the hearing if the Hearing Officer determines the issue has been previously decided in another proceeding.
- C. If the Appellant or the T-HRHA fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for a period not to exceed five (5) working days, or may determine that the non-appearing party has waived his or

her right to a hearing. Such a waiver determination, if made, shall not affect any right the Appellant may have to contest the T-HRHA's disposition of the Grievance in an appropriate judicial proceeding.

- D. At the hearing the Appellant must first make a showing of entitlement to the relief sought. Thereafter, the T-HRHA must sustain the burden of justifying the T-HRHA's action, proposed action, or failure to act against which the Complaint is directed.
- E. The hearing shall be conducted informally by the Hearing Officer, who may receive oral or documentary evidence pertinent to the facts and issues raised by the Appellant without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer shall require the T-HRHA, the Appellant, counsel and other participants and spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in any person's exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of relief sought, as appropriate.
- A. The Appellant or the T-HRHA 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.
- G. T-HRHA shall 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 HPR is visually impaired any notice to the HPR must be in an accessible format.

VII. DECISION

- A. The Hearing Officer or Hearing Panel shall prepare a written decision of the hearing, together with reasons therefore, within thirty (30) days after the hearing. The decision of the Hearing Panel or Hearing Officer cannot be contrary to federal, state or local laws, including the United States Housing Act of 1937, as amended, to the regulations and policies of the Department of Housing and Urban Development, or to the Annual Contributions Contract in effect on the date of the hearing. A copy of the decision shall be sent to the Appellant and to the T-HRHA. The T-HRHA shall retain a copy of the decision in the Appellant's file. A copy of the decision, with all names and identifying references deleted, shall also be maintained on file by the T-HRHA and made available for inspection by a prospective complainant, a complainant, and complainant's representative, a Hearing Panel, or a Hearing Officer.
- B. The decision shall be binding on the T-HRHA, which shall take all actions or refrain from any action necessary to carry out the decision with all deliberate speed.

- C. A decision by the Hearing Panel in favor of the T-HRHA or that denies the relief requested by the Appellant, in whole or in part, shall not constitute a waiver of, nor affect in any manner whatever, any right the Appellant may have to judicial review of the subject matter of the Grievance.
- D. The T-HRHA Board of Commissioners may accept or reject the hearing decision. A decision adverse to the T-HRHA that is neither accepted nor rejected by the Board at its next meeting following the decision's issuance is deemed rejected; a decision in favor of the T-HRHA that is neither accepted nor rejected by the Board at its next meeting following the decision's issuance is deemed accepted.
- E. Within forty-five (45) days following issuance of the hearing decision, the Appellant may reject an unfavorable decision of the hearing by written notice to the T-HRHA, and may demand return of any funds placed in escrow pursuant to these Grievance Procedures. The T-HRHA shall pay the amount in dispute within ten (10) days of such a demand unless it files an appropriate court action or motion to resolve the dispute over payment.

VIII. TERMINATION OR EVICTION ACTION

Termination and/or eviction matters shall not be processed and resolved according to the T-HRHA Grievance procedures. Such matters are subject to formal adjudication procedures in an appropriate judicial setting.

IX. COMPLAINTS

- A. **Written Complaints-** Complaints received from Tenants of all T-HRHA properties and programs, Tribal Partners, Applicants or other entities shall follow the following guidelines listed below.
 - 1. Receipt of written complaint: upon receipt of the written communication, it shall be date stamped by the front desk receptionist and forwarded to the Assistant to the President/CEO.
 - 2. The Assistant to the President shall enter the letter into the complaint log and distribute copies to the appropriate department manager(s) and include date for the response to be made.
 - 3. Upon receipt of the complaint by the Department Manager, the manager shall look into the complaint and prepare a response by the date given.
 - 4. A copy of the response shall be given to the Assistant to the President /CEO to be filed and to close the complaint.
- B. **Verbal Complaints-** Verbal complaints received from Housing Residents, Applicants and Tribal Partners regarding T-HRHA Housing Programs,

Applications, Maintenance, and other routine matters shall be handled either in person or by telephone.

1. Upon receipt of the complaint, staff shall first determine the nature of the complaint and which department if not their department, should handle it.
2. If it is their area of responsibility, staff will write the complaint on a T-HRHA Complaint Form or enter into the residents HDS file under the verbal Complaint Category and either explain and solve the circumstances with the completed answer or assure the complainant that someone will get back to them and give them a reasonable time frame to expect an answer.
3. If the complainant is not your area of responsibility, refer the client to the appropriate department and/or person who will assume responsibility to solve or look into the complaint.
4. Complaints from Tribal Partners, Tribal Officials and other non-client entities shall be referred to appropriate Managers or Vice-Presidents who will either handle the complaint or initiate an investigation into the situation and proper response to the complainant.
5. All verbal complaints that are not from housing residents or applicants must be logged into a complaint log which will be recorded into the log by the Assistant to the President/CEO.