

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 shall be taken until after the grievance process is complete (including hearings held and decisions rendered) or until the time for the Resident to request a grievance hearing has expired.

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

- A. This grievance procedure is **not applicable** to disputes between Residents not involving Owner, or to class grievances involving groups of Residents. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between Resident, or groups of Residents 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 violent or drug related criminal activity on or off such premises, or
 - iii. Any activity resulting in a felony conviction.

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. The **City of Chicago’s Department of Administrative Hearings** shall maintain a group of qualified Hearing Officers for formal hearings.

- B. The CHA and the Central Advisory Council shall jointly agree upon the candidates from that group to serve as independent Hearing Officers at formal hearings of public housing grievances and ensure that proper training is provided.
- C. For each formal hearing involving a public housing grievance, the City of Chicago's Department of Administrative Hearings will assign a Hearing Officer from the group of jointly agreed upon candidates.
- D. The Hearing Officer appointees shall be fair, unbiased, and follow the applicable regulations, policies and laws.

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 request may be simply stated, but shall specifically include: 1) reason for the grievance; and 2) the action requested. The Owner shall provide to the Resident a dated receipt of the request for an informal discussion and a copy will be placed in the Resident'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 fifteen (15) 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 Formal Hearing Request Form for the Resident to request a formal grievance hearing.

Step 2: Request for a formal grievance hearing.

- A. Before a Resident may request a formal hearing, the Resident must have requested an informal hearing, and that hearing must have been held, except in circumstances outlined below. **24 CFR 966.54**

Good Cause: If the Resident can show good cause as to why he/she did not request an informal hearing or why a hearing was not held, then the Resident may proceed directly to a formal hearing. A member of the CHA's Office of the General Counsel shall determine good cause. For purposes of this section, good cause *includes, but is not limited to:* 1) a verifiable medical condition that prevented the Resident from requesting an informal hearing; 2) a documented

absence from the unit which prevented the Resident from receiving a notice of adverse action; 3) a disability that prevented the Resident from understanding or being aware of the adverse action; or 4) documentation that the property management firm was unsuccessful in holding the informal hearing within the fifteen (15) calendar days of the Resident's request. **Failure to hold the informal hearing within fifteen (15) days must not be caused by the Resident's failure to cooperate in scheduling and/or holding the hearing. 24 CFR 966.54.**

If the Resident is not satisfied with the response or the proposed disposition of his/her complaint, or protests his/her proposed eviction, he/she may request a formal hearing. This request must be in writing on the provided Formal Hearing Request Form, presented to the Chicago Housing Authority's Office of the General Counsel by mail or delivery within fifteen (15) calendar 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, including: 1) the reason for the grievance; and 2) the action requested. The Resident shall also mail or deliver a copy of the request to the Owner who will place a copy in the Resident's file.

1. If the dispute is over rent which Owner claims is due, the Resident shall deposit with Owner an amount equal to one month's rent as stipulated in the Resident's most recent 50058 form. This amount will be placed in escrow pending the settlement of the dispute. Owner shall waive the requirement for an escrow deposit because of a financial hardship exemption or the effect of welfare benefits reduction and shall allow the Resident to present evidence of a financial hardship or welfare benefits reduction before any grievance is heard, provided such presentation does not delay the grievance process. Unless the Owner waives the escrow requirement because of the Resident's financial hardship, the Resident's failure to make a payment to the escrow account will terminate the Resident's 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 Resident will be entitled to a fair hearing and may be represented by counsel or other representative. The hearing shall be private, unless the Resident requests a public meeting. Prior to the hearing, the Resident may examine and copy at the Resident's expense, the Resident's file and all documents, records, and regulations of the Owner that are relevant to the grievance. Costs for copies shall not exceed 10 cents per page.
1. Any document specifically requested but not made available five days after the request has been made may not be relied upon by Owner at the hearing.

2. Resident or the Resident's representative shall submit in writing a request for copies within five (5) calendar days of the hearing. Copies of the documents shall be made available no later than one (1) hour before the formal hearing is scheduled to begin.

C. The procedure of the grievance hearing shall be:

1. All parties involved shall be notified, in writing, of the date, time and place of the hearing and be given a description of the hearing procedures, including the consequences for failure to appear at the hearing, seven (7) days before the formal hearing date;
2. The Resident may arrange, in advance of, or following the hearing, and at the expense of the Resident, 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. A record shall be made of the formal grievance hearing by audio-tape~~d~~ or other appropriate means, and will be retained for not less than six (6) months from the date of the hearing;
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 Resident or Owner may be received without regard to admissibility under rules of evidence applicable to judicial proceedings; The Hearing Officer may question either party and all witnesses for clarification;
8. The Hearing Officer will conduct a de novo review of the facts and law presented at the hearing and render a decision based upon the preponderance of the evidence presented; and
9. After Owner and the Resident have presented all facts, the Hearing Officer shall 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 Resident fails to appear at a hearing, the Hearing Officer may make a determination that the Resident or Owner has waived his/er right to participate in a formal grievance hearing; find the party in default; and proceed with the formal hearing. A copy of the order of default shall be served upon the defaulting party by hand delivery or first class mail.

The defaulting party shall have 21 days from the date of the default to petition the Hearing Officer to set aside the order of default upon a showing of good cause for defaulting party's failure to appear.

- E. If the Resident 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 Resident's right 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 Resident 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 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 Resident and Owner within five (5) working days of the conclusion of the hearing, including a statement of findings and conclusions; Copies of the decision shall also be mailed or delivered to the parties and/or their representatives.
 - 1. If the decision is in favor of the Resident, Owner shall promptly take action to carry out the decision or refrain from any action prohibited by such decision.
 - 2. 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 pursuant to the RRC, Section 1(l).