

ADDENDUM 3 TO DWELLING LEASE

Housing Authority of the City of High Point High Point, North Carolina

GRIEVANCE POLICY AND PROCEDURE

All grievances concerning the obligations of a resident and/or members of the resident's household and the Housing Authority of the City of High Point ("PHA"), in accordance with the dwelling lease and/or regulations of the United States Department of Housing and Urban Development ("HUD"), which adversely affects the resident's rights, duties, welfare or status, shall be resolved in accordance with this "Grievance Policy and Procedure."

1. RIGHT TO A HEARING

Upon filing of a written request in accordance with this Policy, a Complainant shall be entitled to an informal hearing or a formal hearing before the Hearing Panel as provided herein.

2. DEFINITIONS

Grievance shall mean any dispute which a resident may have with respect to PHA's action or failure to act in accordance with resident's lease or HUD regulations which adversely affect the individual resident's rights, duties, welfare or status.

Complainant shall mean any resident whose grievance is presented to PHA for an informal settlement or a formal hearing as defined herein.

Elements of due process, as used in this Policy, shall mean an eviction action or a termination of residency in a State or local court in which the following procedural safeguards are required:

- Adequate notice to the resident of grounds for terminating the residency and for eviction.
- Right of the resident to be represented by counsel at the expense of the resident.

- Opportunity for the resident to refute the evidence presented by PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have.
- A decision on the merits.

Hearing Panel shall mean a panel selected as follows:

- a. One panelist shall be a member of the Board of Commissioners of the Housing Authority of the City of High Point (“Board Member”), or a local minister. Provided that no apparent or real conflict of interest exists, each Board Member who is impartial shall have equal opportunity to serve as a panelist. The Board Member shall serve on the panel on a rotating basis in alphabetical order. The Chairman of the Panel shall be selected by the Chief Executive Officer or his/her designee; however, if Board Member is selected as a panelist, such member shall serve as the Chairman of the Panel.
- b. One panelist shall be appointed by a list of residents selected by the Resident Council Association. This list shall contain one resident from each public housing development who will serve on a rotating basis in alphabetical order. The Complainant will have the privilege of rejecting the first two names, and can request further rejection for reasonable cause. The Chairman of the Hearing Panel shall make the decision in the event of a challenge for cause.
- c. One panelist, appointed by the Chief Executive Officer or his or her designee, shall be an impartial party who is not be a member of the PHA staff.

HUD shall mean the United States Department of Housing and Urban Development.

PHA shall mean the Housing Authority of the City of High Point.

Policy shall mean the “Grievance Policy and Procedure” contained herein.

Resident shall mean the adult person (or persons, other than a live in aide):

- Who resides in the unit, and who executed the lease with PHA as lessee of the dwelling unit, or if no such person now resides in the unit;

- Who resides in the unit, and is the remaining head of household of the resident family residing in the dwelling unit.

3. INFORMAL SETTLEMENT

Any grievance may be personally presented in writing to the Senior Property Manager within seven (7) business days of the date of notice of PHA's action or inaction (including, but not limited to, notice of lease termination, notice of rent adjustment, monthly statement of rent, and notice of transfer) so that the grievance may be discussed informally and possibly settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the resident and one retained in PHA's resident file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing may be obtained if the Complainant is not satisfied.

The failure of the resident to submit a request for an informal discussion within the time period provided above or to appear for the informal discussion shall terminate the resident's right for a grievance hearing under this Policy. However, such failure shall not constitute a waiver of any right of the resident to contest PHA's action or inaction or the disposition of the grievance in an appropriate judicial proceeding.

The **Senior Property Manager** may consider the reason(s) for the failure to submit a timely request or appear and may extend the time by which to submit the request or reschedule the informal discussion.

4. PROCEDURE TO OBTAIN A HEARING.

Request for hearing. The Complainant shall submit a written request for a hearing to PHA or the project office within seven (7) business days after receipt of the summary discussion in the informal settlement of grievance. The written request shall specify:

- The reason of the grievance; and
- The action of relief sought.

Failure to request a hearing. If the Complainant does not request a hearing or fails to submit a timely request for a hearing, then PHA's disposition of the grievance under the informal settlement procedure shall become final, provided that failure to request a hearing shall not constitute a waiver by the Complainant of his right hereafter to contest PHA's action in disposing of the complaint in an appropriate judicial proceeding.

Hearing Prerequisite. All grievances shall be personally presented in writing, pursuant to the informal procedure as a condition precedent to a hearing under this Section, provided, that if the Complainant shows good cause why he failed to proceed in accordance with the informal settlement procedure to the Hearing Panel, the provisions of this Subsection may be waived by the Hearing Panel.

Escrow deposit. Before hearing any grievance involving an amount of rent, the Complainant shall pay to PHA as an escrow deposit, an amount equal to the amount of rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The Complainant shall thereafter deposit the same amount of the monthly rent until the complaint is resolved by decision of the Hearing Panel. These requirements shall be waived by PHA under the following circumstances:

- a. If the subject of the grievance is the action of the resident's imputed welfare income, then the resident shall not be required to pay the escrow deposit for the portion of the rent attributable to the imputed welfare income pursuant to HUD regulations;
- b. If PHA determines that the resident has a financial hardship; or
- c. If PHA determines that there the resident has shown good cause.

Unless so waived, the failure to make such payments shall result in a termination of the procedure in this Section, provided, that failure to make payment shall not constitute a waiver of any right the Complainant may have to contest PHA's disposition of his grievance in any appropriate judicial proceeding.

Scheduling of hearings. Upon the Complainant's compliance with the requirements of this Section, a hearing shall be scheduled by the Hearing Panel promptly for a time reasonably convenient to both the Complainant and PHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the Complainant and the Chief Executive Officer or his or her designee.

5. PROCEDURES GOVERNING THE HEARING

- a. The hearing shall be held before a Hearing Panel as defined above.
- b. The hearing shall be held in the Board Room located in PHA's Central Office or another location as determined by the Hearing Panel.
- c. The Complainant shall be afforded a fair hearing, which shall include:
 - The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The resident shall be allowed to copy any such document at the resident's expense. If PHA does not make the document available for examination upon request by the Complainant, PHA may not rely on such document(s) at the grievance hearing.
 - The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf.
 - The right to a private hearing unless the Complainant requests a public hearing.
 - The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony of information PHA or project management relied.
 - A decision based solely and exclusively upon the facts presented at the hearing.
- d. The Hearing Panel may render a decision without proceeding with the hearing if the Hearing Panel determines that the issue has been previously decided in another proceeding.

- e. If the Complainant or the representative of PHA fails to appear at a scheduled hearing, the Hearing Panel may make a determination to postpone the hearing for a time not to exceed five (5) business days or make a determination that the party has waived his/her/its right to a hearing. Both the Complainant and PHA shall be notified of the determination by the Hearing Panel, provided that a determination that the Complainant has waived his right to a hearing shall not constitute a waiver of any right the Complainant may have to contest PHA's disposition of the grievance in an appropriate judicial proceeding.
- f. At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and thereafter PHA must sustain the burden of justifying PHA's action or failure to act against which the complaint is directed.
- g. The hearing shall be conducted informally by the Hearing Panel 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 Hearing Panel shall require PHA, the complainant, Complainant's counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party by granting or denying the relief sought, as appropriate.
- h. The Complainant or PHA may arrange in advance and at the expense to the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy or such transcript.
- i. Accommodation of persons with disabilities.

PHA must provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreter, readers, and accessible locations or attendants.

If the resident is visually impaired, any notice to the resident that is required under this Policy must be in an accessible format.

6. DECISION OF THE HEARING PANEL

- a. The Hearing Panel shall prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing. A copy of the decision shall be sent to the Complainant and PHA. PHA shall retain a copy of the decision in the resident's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by PHA and made available for inspection by a prospective complainant, his representative, or the Hearing Panel.
- b. The decision of the Hearing Panel shall be binding on PHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the PHA Board of Commissioners determines within a reasonable time, and promptly notifies the Complainant of its determination, that:
 - The grievance does not concern PHA's action or failure to act in accordance with or involving the Complainant's lease and/or HUD regulations, which adversely affect the Complainant's rights, duties, welfare or status;
 - The decision of the Hearing Panel is contrary to applicable Federal, State or local law, HUD regulations or requirements of the annual contributions contract between HUD and PHA.
- c. A decision by the Hearing Panel or Board of Commissioners in favor of PHA 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.

7. PHA EVICTION ACTIONS

If a resident has requested a hearing in accordance with the Policy on a complaint involving a PHA notice of termination of the tenancy and the Hearing Panel upholds PHA's action to terminate the tenancy, PHA shall not commence an eviction action in a State or local court until it has served a notice to vacate on the resident, and in no event shall the notice to vacate be issued prior to the decision of the Hearing Panel

having being mailed or delivered to the Complainant. Such notice to vacate must be in writing and specify that if the resident fails to quit the premises within the applicable statutory period, or on the termination date appropriate action will be brought against him and he may be required to pay court costs and attorneys' fees.

8. APPLICABILITY

The Policy shall be applicable (except as provided in this Section) to all individual grievances as defined in Section 2 of this Policy

HUD has issued a due process determination after finding that North Carolina law provides the basic elements of due process before an eviction may be so ordered. HUD's due process determination authorizes public housing authorities in North Carolina to exclude administrative grievance procedures where a judicial eviction has been decided through local court proceedings. Therefore, PHA is not required to provide the opportunity for a hearing under its Policy concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of PHA;
- Any violent or drug-related criminal activity on or off such premises;
- Any criminal activity that resulted in felony conviction of a household member.

This Policy shall not be applicable to disputes between residents not involving PHA or to class grievance. This Policy is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and PHA's Board of Commissioners.

When PHA is not required to offer a resident the opportunity for a hearing under the Policy and PHA has decided to exclude such grievance from the Policy, the notice of termination shall:

- State that the resident is not entitled to a grievance hearing on the termination;
- Specify the judicial eviction procedure to be used by PHA for eviction and state that HUD has determined that this eviction procedure provides the

opportunity for a hearing in a court that contains the basic elements of due process as defined in HUD regulations; and

- State whether the eviction is for: (A) criminal activity that threatens health or safety of residents or employees of PHA; (B) violent or drug-related criminal activity on or off such premises; (C) criminal activity that resulted in felony conviction of a household member.