

# **HOUSING AUTHORITY OF THE CITY OF MILWAUKEE**

## **RESIDENT GRIEVANCE PROCEDURES**

### **FOR FEDERALLY-ASSISTED PUBLIC HOUSING**

**REVISED 07/22**

#### **ARTICLE I -GENERAL PROVISIONS**

##### **A. PURPOSE AND SCOPE:**

This Grievance Procedure is provided to assure that any Housing Authority (hereinafter "HACM") resident has the opportunity for a hearing if that resident disputes within a reasonable time any HACM action or failure to act which involves that resident's lease with HACM or any HACM regulations which adversely affect that individual resident's rights, duties, welfare, or status. This procedure does not apply to disputes between residents which do not involve HACM or to class grievances and shall not be used by residents to initiate or negotiate policy changes with HACM, but is intended to ensure just and equal enforcement of rules and regulations to the benefit of both HACM and its residents. The issues to which these grievance procedures apply include but are not limited to resident disputes of charges in excess of dwelling unit rent for, inter alia, sales, service, repairs, maintenance and retroactive rental amounts and eviction actions.

##### **B. APPLICABILITY:**

In accordance with HUD regulations 24 CFR Part 966.51:

1. The grievance procedure shall be applicable to all individual grievances as defined in section D, below, however;
2. HUD has determined that the eviction laws in the state of Wisconsin require that a resident must be given the opportunity for a hearing in court that provides the basic elements of due process before eviction from the dwelling unit. As such, HACM may exclude from this grievance procedure any evictions that involve:
  - a. Criminal activity which threatens the health, safety or right to peaceful enjoyment of the premises by other residents or employees of HACM;
  - b. Any violent or drug-related criminal activity on or off such premises;

##### **C. TIME REQUIREMENTS FOR FILING OF A GRIEVANCE :**

1. Termination of Tenancy: All grievances involving a termination of tenancy must be filed within ten (10) days of receipt of the termination notice.

2. 30-Day Notice of Termination: In cases involving a 30-day notice of lease termination, the vacate notice required by the State of Wisconsin may be combined with or run concurrently with a notice of lease termination. Such notice shall inform the resident that resident must file a grievance within ten (10) business days from the date of service or posting/mailing of said notice.
3. All other grievances resulting from HACM actions or failure to act adversely affecting the resident shall be filed within ten (10) days from the time of notification of HACM action or from the date of the occurrence of the inaction.

D. **DEFINITIONS:**

For the purpose of the following sections, definitions listed below are applicable:

1. Resident: Is defined as the adult person (or persons) (other than a live-in aide) who;
  - a. Reside(s) in the unit and who executed the lease as head(s) of the household or;
  - b. Reside(s) in the unit and is/are the remaining adult member(s) of the household.
2. Grievance: Shall mean any dispute which a resident may have with respect to HACM action or failure to act in accordance with the individual resident's lease or HACM regulations which adversely affect the individual resident's rights, duties, welfare or status.

ARTICLE II -FUNCTION OF BOARD

It is the function of the Public Housing Review Board (also referred to herein as "Review Board") to hear appeals of residents of HACM's public housing upon written request of the resident and after a pre-hearing conference between the resident and the manager in which an effort was made to solve the problem without the need of a hearing.

### ARTICLE III -PUBLIC HOUSING REVIEW BOARD

#### A. PROCEDURE FOR SELECTION AND COMPOSITION:

HACM shall provide for the appointment of a Review Board panel by the following method:

1. In those disputes involving termination of residency, the selection and composition of the Public Housing Review Board shall be as follows:

An Attorney who shall not have any personal interest in the case being heard. The attorney will be selected by the Secretary-Executive Director of HACM. This person shall act as Chairperson of the Public Housing Review Board.

Two public housing residents of HACM. These board members shall be selected from a pool of adult residents who have volunteered to serve on the Board. The members must meet the following requirements:

- a. Account not in arrears;
  - b. Not themselves under eviction action or appeal;
  - c. Not related to resident complainant;
  - d. Has no personal interest in the matter being heard;
  - e. Shall not be a current or past resident of the same development as the complainant.
2. In those disputes not involving the termination of residency, including but not limited to disputes involving charges for repairs, sales, service or maintenance, retroactive rent, transfer requests, and rent increases, HACM will eliminate the attorney member of the Public Housing Review Board. In such cases, a staff member shall act as Chairperson and shall be responsible for issuing a valid and binding written decision.

#### B. CHALLENGE TO PANEL MEMBER:

A resident appearing before the Public Housing Review Board shall have the right to challenge any member of the panel for good and just cause as defined above. If the remaining members of the Board sustain the challenge, an alternate shall be selected to replace the challenged member.

## ARTICLE IV- PROCEDURES BEFORE THE HEARING

### A. SALES AND SERVICE CHARGES, RETROACTIVE RENT CHARGES AND OTHER ADVERSE ACTIONS -NOTICE:

After any repairs or maintenance (sales and service) are performed for which HACM intends to charge the resident, HACM shall provide a notice to the resident. The notice shall state the date of the repair, maintenance, sale or service, the nature of said work, the amount charged therefore, the specific and factual reasons underlying HACM's decision that the resident is liable therefore and notice of the resident's right to dispute the charge by meeting with the Manager and, if the dispute is not resolved at that meeting, the right to request a formal grievance hearing in accordance with these procedures. A similar notice shall be given in all other adverse actions that HACM proposes to take against a resident. All notices of adverse action shall state the time limit for presenting a grievance to HACM.

### B. INFORMAL DISCUSSION TO SETTLE THE GRIEVANCE:

All reasonable efforts will be made to settle disputes directly between the resident and HACM. Any grievance shall be personally presented orally or in writing to the Development Office, within ten (10) days from the date of notification of HACM's action, so that the grievance may be discussed informally and resolved without a hearing.

Within a reasonable time after the informal discussion, the housing manager shall prepare a brief written summary of the discussion on the Summary of the Pre-Hearing Conference/Hearing Status Declaration form. The Summary shall specify the names of the participants, date of meeting and the nature of the proposed disposition of the complaint and the specific reasons for the disposition. One copy of the form shall be given to the resident and a copy shall be retained in the resident's file. The resident shall also be informed of his/her right to request a hearing if the resident is not satisfied with the results of the informal discussion.

### C. TERMINATION OF LEASE

When the actions of a resident are such that in the judgment of the Management, the only relief is to seek termination of the resident's lease, Management shall prepare a 30-day or 14-day vacate notice and a Notice of Lease Termination. These "Notices" shall be combined pursuant to 24 CFR Part 966.4 (l) (3) (iii) and personally served upon the resident, or after exercising due diligence, posted and mailed in accordance with Wisconsin Statutes. The Notice of Lease Termination shall also inform resident of resident's right to request a hearing before the Public Housing Review Board. However, residency may not be terminated (even if the notice to vacate under state law has expired) until the time for the resident to request a hearing has expired, or, if a hearing was requested in a timely manner, until the completion of the grievance process.

Within ten (10) days of notification of HACM's intent to terminate resident's lease, the resident shall, if he or she wishes a hearing on the matter, arrange a pre-hearing conference with the Housing Manager as stated in said "Notice". The Housing Manager shall discuss the matter with the resident and an effort shall be made to resolve the problem. A written notation of such contacts, with simple explanation of what transpired, shall be placed in the resident's file. Within two (2) working days of the pre-hearing conference, the resident must fill out and return the "Summary of Pre-Hearing Conference/Hearing Status Declaration" form to the Development Office.

**D. GRIEVANCES INVOLVING RENTAL PAYMENTS:**

Before a hearing is scheduled in any grievance involving the amount of rent due as stated in the resident's dwelling lease, Notice of Rent Adjustment, (or a 14-day Notice Terminating Tenancy for non-payment of rent) the resident shall pay HACM an amount equal to the amount of rent due and payable as of the first of the month preceding the month in which the Notice of Rent Adjustment, or the 14-day Notice, was issued. The resident shall, thereafter, deposit the same amount of monthly rent in an escrow account established by HACM until the complaint is resolved by the decision of the Public Housing Review Board. These requirements may be waived by HACM 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 payment shall not constitute a waiver of any right the resident may have to contest HACM disposition of his/her grievance in any appropriate judicial proceeding.

This paragraph may not be construed to require the escrow of any amounts due for sales, service, repairs or maintenance or retroactive rents as a condition of being provided a grievance hearing. The sole intent of this section is to require the resident to continue to pay the prior and undisputed rent (including any late fees) during the pendency of a dispute on an increase of regular prospective monthly rent.

**E. PROCEDURE TO OBTAIN A HEARING:**

The resident must submit a written request for a hearing to the housing manager. The written request shall specify:

1. The reason for the grievance; and
2. The action or relief sought.

**F. SCHEDULING OF HEARING:**

Within a reasonable amount of time after receipt of the request for a hearing, the Secretary-Executive Director of HACM or designee shall schedule a hearing and shall notify the parties in writing of the time and place for the hearing.

Such "Notice of Hearing Date" shall substantially inform the resident of his/her rights prior to and at the hearing.

G. HEARING PREREQUISITE:

All grievances shall be personally presented in the manner set out at (B) above before a hearing can be granted. If the resident can show good cause to the Public Housing Review Board why he or she failed to proceed in the above manner, the requirements for the informal discussion or other requirements may be waived by the Public Housing Review Board.

H. SELECTION OF THE HEARING PANEL:

Once a request for a hearing has been presented by the resident, a Public Housing Review Board panel shall be selected as soon as possible. HACM shall provide such space, funds, supplies, and clerical assistance as are necessary for the discharge of the Review Board's duties under this grievance procedure which may include reimbursement for reasonable actual expenses incurred by the Review Board members necessary to attend the hearings at which they are to preside.

ARTICLE V -PROCEDURES AT THE HEARING

- A. In accordance with 24 CFR Part 966.56 (a) through (h), the hearing will be held before the Public Housing Review Board selected in accordance with this procedure. All members of the Public Housing Review Board must be present for a hearing. Substitute board members, selected at the same time and under the same procedures as the regular board members may be used.
- B. The resident has the right to a private hearing unless the resident requests a public hearing.
- C. The resident has the right to examine and copy, at his/her own expense, before the hearing, all HACM documents, records and regulations that are relevant to the hearing. Any documents not made available by HACM to the resident may not be used by HACM at the hearing.
- D. The resident has the right to be represented by counsel or other person chosen by resident to present evidence and arguments to support his/her case.
- E. At the hearing, the resident must first show his/her entitlement to the relief being sought, and thereafter HACM must justify that action or failure to act against which the complaint is directed. In cases in which HACM is seeking eviction, HACM shall first show entitlement to such relief.

- F. The resident has the right to present evidence and arguments in support of his or her complaint, to controvert evidence relied upon by HACM, and to confront and cross-examine all witnesses upon whose testimony or information HACM relies.
- G. The hearing shall be conducted informally by the Public Housing Review Board. Oral and documentary evidence pertinent to the facts and issues raised by the complainant may be received as evidence without regard to admissibility under the rules of evidence which apply to judicial proceedings. The decision of the Public Housing Review Board may not, however, rest solely on uncorroborated hearsay evidence. Whether or not testimony shall be given under oath is at the discretion of the Review Board for each hearing; except when the Review Board requires the taking of an oath, then all testimony at that hearing shall be received under oath. The oath shall be administered in accordance with Chapter 887, Wisconsin Statutes, as amended from time to time.
- H. The members of the Review Board shall hear all the testimony and accept the records, reports, documents and materials into evidence as submitted by the resident and HACM, and shall evaluate and give weight to the evidence to the extent of its relevance to the matter of the hearing. The Review Board shall have the right to examine any and all persons testifying and any and all records, reports, documents and materials referred to in the hearing including depositions of persons unable to attend the hearing. In the event there is a refusal to answer or comply with a request by the Review Board for the opportunity to examine the evidence, the Review Board may disregard the testimony of that person or that evidence.
- I. The hearing may be audio-recorded and either HACM or the resident may arrange to have a transcript of the proceedings made. The party demanding the transcript shall pay the expense of such transcription. Where appropriate, HACM and resident may agree to share the cost of transcription and reproduction. Any interested party may purchase a copy of such transcript.
- J. The Review Board shall require all parties to conduct themselves in an orderly manner. Failure to comply with the direction of the Review Board may result in the disorderly party being excluded from the hearing.
- K. If the resident requests a postponement of the hearing less than 24 hours prior to the hearing, the resident must provide written documentation to the housing manager within two (2) working days after the scheduled hearing date as to the reason(s) for the postponement. If the Board determines that said reason(s) is/are not deemed to be of good or sufficient cause, or the resident fails to provide written documentation, he/she shall be deemed to have waived the right to a hearing on that matter. However, the resident's right to appropriate judicial proceedings is still available.
- L. Failure of the resident to appear at the hearing will result in a forfeiture of the right to a hearing on the same matter. This shall not preclude any right that the resident may have to challenge the action in an appropriate judicial proceeding.

- M. The parties to the grievance may decide to stipulate to any or all factual allegations. Where the factual allegations are agreed to before hearing, the Review Board may make a decision without holding a hearing.
- N. The Review Board may make a decision without holding a hearing if the Board determines that the issue has been decided in a previous grievance hearing.
- O. HACM shall provide reasonable accommodation for residents with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations or attendance. If the resident is visually impaired, any notice that is required under this procedure will be in an accessible format.

#### Article VI – Remote Hearings

- A. Where both parties agree, a hearing may be conducted remotely by electronic means. HACM will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the resident, HACM representative(s) or the Review Board members are unable to access the conference at any point, the hearing may be postponed, and an in-person alternative will be provided within a reasonable time.
- B. If the hearing will be conducted remotely, HACM will compile a hearing packet, consisting of all documents the PHA intends to produce at the hearing. The PHA will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the members of the Public Housing Review Board at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.
- C. If the hearing will be conducted remotely, the PHA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, or via email. Documents shall be shared electronically whenever possible.
- D. As with in-person grievance hearings, the platform for conducting remote grievance hearings must be accessible to persons with disabilities and the grievance hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.
- E. If no method of conducting a remote grievance hearing is available that appropriately accommodates an individual's disability, HACM may not hold against the individual his or her inability to participate in the remote grievance hearing.

#### ARTICLE VII -THE DECISION



- A. The decision shall be in writing and rendered promptly after the hearing, and it shall state the reasons for the determination and indicate the evidence relied on. In reaching a decision, only the testimony and evidence presented at the hearing shall be considered. The written decision shall be dated and signed by the Chairperson acknowledging the decision in accordance with the majority vote. A file shall be made for each hearing, identified only with the assigned case number and containing a copy of the evidence relied upon, testimony, a copy of the decision and other pertinent information to be retained by HACM. An index to the file will identify the resident and case number and enhance the confidentiality of the files.
- B. A copy of the decision shall be transmitted within ten (10) working days of its signing to the resident and his/her representatives. HACM shall retain a copy in the resident's file.
- C. The decision of the Public Housing Review Board shall be binding on HACM and HACM shall take all actions, or refrain from actions, necessary to carry out that decision, unless the Housing Authority Board of Commissioners determines at the meeting following receipt of the decision and promptly notifies the resident that:
  - 1. The complaint did not constitute a grievance as defined in this procedure; OR
  - 2. The decision is contrary to applicable, federal, state or local law, HUD regulations, or the Housing Authority's Annual Contributions Contract with HUD.
- D. A decision by the Public Housing Review Board or HACM Board of Commissioners in favor of HACM or one which denies the relief requested by the resident in whole or any part shall not constitute a waiver of, nor affect in any manner whatever, any rights the resident may have to a trial de novo or judicial proceedings which may thereafter be brought in that manner.