

TALLAHASSEE HOUSING AUTHORITY

GRIEVANCE PROCEDURE

- I. **Definitions applicable to the grievance procedure :(§ 966.53)**
 - A. Applicant: A person or a family that has applied for admission to housing
 - B. CFR: The code of federal regulations, contain the federal regulations governing this grievance procedure.
 - C. Complainant: Any Resident (as defined below) whose grievance is presented to the THA (at the central office or the development office) in accordance with the requirements presented in this procedure.
 - D. Elements of due process: An eviction action or a termination of residency in a State or local court in which the following procedural safeguards are required:
 - (1) Adequate notice to the Resident of the grounds for terminating the residency and for eviction;
 - (2) Right of the Resident to be represented by counsel;
 - (3) Opportunity for the Resident to refute the evidence presented by the THA, including the right to confront and cross examine witness and to present any affirmative legal or equitable defense which the Resident may have;
 - (4) A decision on the merits of the case.
 - E. Grievance: Any dispute a Resident may have with respect to THA action or failure to act in accordance with the individual Resident's lease or THA regulations that adversely affects the individual Resident's rights, duties, welfare or status.
 - F. HUD: The United States Department of Housing and Urban Development
 - G. Hearing Officer: A person selected in accordance with **24CFR § 966.550** and this procedure to hear grievances and render a decision with respect thereto.
 - H. Hearing Panel: A three member panel selected in accordance with **24 CFR § 966.55** and this procedure to hear grievances and render a decision with respect thereto.

- I. Resident: The adult person (or persons other than a Live-in aide): **(1)** Who resides in the unit, and who executed the lease with the THA as lessee of the dwelling unit, or, if no such person now resides in the unit, **(2)** who resides in the unit, and who is the remaining head of the household of the Resident family residing in the dwelling unit.
- J. Resident Organization: O U T A O r a n g e A v e n u e U n i t e d T e n a n t A s s o c i a t i o n . An organization of residents, which also may include a resident management corporation.
- K. THA: Tallahassee Housing Authority.
- L. USCIS: United States Citizenship and Immigration Services
- M. Business days: Monday through Friday of each week, except for legal holidays recognized by the federal government.

II. Applicability of this grievance procedure (966.51)

In accordance with the applicable Federal regulations (**24 CFR § 966.50**) this grievance procedure shall be applicable to all individual grievances (as defined in Section I above) between Resident and the THA with the following two exceptions:

- A. Because HUD has issued a due process determination that the law of the State that requires that a Resident be given the opportunity for a hearing in court which provides the basic elements of due process (as defined above) before eviction from the dwelling unit, the grievance procedure shall not be applicable to any termination of residency or eviction that involves:
 - (1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the THA or
 - (2) Any violent or drug related criminal activity on or off such premises; or
 - (3) Any criminal activity that resulted in felony conviction of a household member. **[(966.51 (2)(i) (A) (B) and (C)]**
- B. THA grievance procedure shall not be applicable to disputes between Residents not involving THA or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of Residents and the THA's Board of Commissioners. **[966.51 (b)]**

This grievance procedure is incorporated by reference in all Resident dwelling leases and will be furnished to the resident organizations. **[966.52 (b) and (d)]**

Any changes proposed in this grievance procedure must provide for at least 30 days notice to Residents and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be

considered by the THA before any revisions are made to the grievance procedure. [966.52 (c)]

III. Informal settlement of a grievance for Applicants and Residents [966.54]

Any grievance must be personally presented, either orally or in writing, to the THA's central office or the management office of the development in which the Resident complainant resides **within ten days after the grievable event.**

THA will not offer applicants the opportunity for an informal hearing for any reason other than those required by regulations. THA will only offer informal hearing to applicants for the purpose of disputing denials of admission.

Grievances related to complaints about operational matters that are received by the THA's central office will be referred to the person responsible for the management of the development in which the Resident resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Office of Fair Housing and Equal Opportunity.

As soon as the grievance is received, it will be reviewed by the management office of the property or by the Office of Fair Housing and Equal Opportunity (if applicable) to be certain that neither of the exclusions in paragraphs II.A or ILB above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to THA's grievance procedure, with the reason therefore.

If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time within **ten business days** to meet so the grievance may be discussed informally and settled without a hearing. At the informal hearing the complainant will present the grievance and the person in charge of the management office or the Work Force Development Office will attempt to settle the grievance to the satisfaction of both parties.

Within ten business days following the informal settlement, THA shall prepare and either hand deliver or mail to complainant a summary of the settlement that must specify the names of the participants, the 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 formal hearing under this procedure may be obtained **if** the complainant is not satisfied. A copy of this summary shall also be placed in complainant's file. A receipt signed by the complainant or a return receipt for delivery of certified mail, whether or not signed, will be sufficient proof of time of delivery for the summary of the informal settlement. [966.55(a)]

When THA receives notification that the United States Citizenship and immigration Services (USCIS) secondary verification failed to confirm eligible immigration status of an applicant or resident, THA will notify the family in writing of the results within 10 business days of receiving the results. The family has 30 days from the date of notification to make an appeal to the USCIS of the verification results. The family must provide THA with a copy of any

written request for an appeal and proof of mailing within ten business days of sending the request to the USCIS.

THA will send written notice to the family informing them of their right to request an informal hearing concerning THA's ineligibility decision within 10 business days of receiving notice of the USCIS ineligibility decision regarding the family's immigration status.

IV. Formal Grievance Hearing

If a Resident is dissatisfied with the settlement arrived at in the informal hearing, the complainant must submit a written request for a hearing to the management office of the development where Resident resides **no later than five working days after the summary of the informal hearing is received.**

The written request shall specify:

The reasons for the grievance;

The action of relief sought from the THA; and

Several dates and times in the following ten business days when the complainant can attend a grievance hearing.

If the Resident requests a hearing in a timely manner, THA shall schedule a hearing on the grievance at the earliest time possible for the complainant, THA and the hearing officer or hearing panel, but in no case later than **ten working days** after the THA received the complainant's request.

If the Resident fails to request a hearing within five business days after receiving the summary of the informal hearing, the THA's decision rendered at the informal hearing becomes final and the THA is not obligated to offer the complainant a formal hearing unless the complainant can show good cause why he failed to proceed in accordance with this procedure. **[966.55 (c) and (d)]**

A Resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Request to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, THA may request documentation of the "good cause" to rescheduling the hearing.

Failure to request a grievance hearing does not affect the complainant's right to contest the THA's decision in a court hearing. **[966-54 (c)]**

V. Selecting the Hearing Officer or Hearing Panel [966.55 (b)(2)(ii)]

A grievance hearing shall be conducted by an impartial person or persons appointed by the THA after consultation with the resident organizations, as described below:

- A. THA shall nominate a slate of impartial persons to sit as hearing officers or hearing panel members. Such persons may include THA Board members,

THA staff members, OUTA board members, residents, professional arbitrators, or others. The initial slate of nominees should be at least nine persons.

THA will check with each nominee to determine whether there is an interest in serving as a hearing officer or panel member, whether the nominee feels fully capable of impartiality, whether the nominee can serve without compensation, and what limitations on the nominee's time would affect such service.

Nominees will be informed that they will be expected to disqualify themselves from hearing grievances that involve personal friends, other residents of developments in which they work or reside, or grievances in which they have some personal interest.

Nominees who are not interested in serving as hearing officers or whose time is too limited to make service practical will be withdrawn and other names will be substituted.

- B. A slate of potential hearing officers or hearing panel members nominated by THA shall be submitted to the THA's Resident Organization. Written comments from the organization shall be considered by THA before the nominees are appointed as hearing officers or panel members.
 - C. When the comments from Resident Organization have been received and considered, the nominees will be informed that they are the THA's official grievance hearing committee. **A member of OUTA will be included as a part of the hearing panel.**
 - D. THA will subsequently contact committee members to request their participation as hearing panel members or hearing officers.
- [966-56(b)]**

VI. Escrow deposit required for a hearing involving rent [966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent which the THA claims is due under this lease, the complainant shall pay to the THA an amount equal to the 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 in an escrow account monthly until the complaint is resolved by decision of the hearing officer or hearing panel.

This requirement will not be waived by the THA unless the complainant is paying minimum rent and the grievance is based on a request for a hardship exemption or the Resident's welfare benefits have been reduced for welfare fraud or failure to comply with economic self sufficiency requirements. In these cases only, rent need not be escrowed.

VII. Scheduling hearings [(966.55(f)]

When a complainant submits a timely request for a grievance hearing, THA will immediately

contact three members of the hearing committee to schedule the hearing within the following ten business days. If three committee members can agree on a date and time for the hearing, the complainant will be so notified.

If two of the committee members can meet on a date convenient for the complainant, THA will approach another member of the hearing committee to find a third member to complete the panel.

If only one member of the hearing committee can meet on a date named by the complainant, that single committee member shall serve as the hearing officer.

Once the hearing panel or hearing officer have agreed upon the hearing date and time, the complainant, the manager of the development in which the complainant resides, and hearing panel members or officer shall be notified in writing. Notice to the complainant shall be in writing, either personally delivered to complainant or sent by mail return receipt requested.

The written notice will specify the time place and procedures governing the hearing.

VIII. Procedures governing the hearing [966.56]

The hearing shall be held before a hearing panel or hearing officer as described above in Section VII. The complainant shall be afforded a fair hearing, which shall include:

- A. The opportunity to examine before the hearing any THA documents, including records and regulations, that are directly relevant to the hearing.

The Resident shall be allowed to copy any such document at a cost of \$.25 per page. The Resident may also request their file be made available 1 hour prior to the hearing and will be allowed to mark those portions they want to be considered or placed in evidence. If THA does not make the document available for examination upon request by the complainant, THA may not rely on such document at the grievance hearing.

- B. 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.
- C. 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 THA or project management, and to confront and cross examine all witnesses upon whose testimony or information the THA or project management relies:
and
- D. A decision based solely and exclusively upon the fact presented at the hearing.

[966-56 (b)]

The hearing panel or officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding. [966-56

(c)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and, thereafter, THA must sustain the burden of justifying the THA action or failure to act against which the complaint is directed. [966.56 (e)]

The hearing shall be conducted informally by the hearing panel or officer. 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. [966.56 (c)]

The hearing panel or officer shall require THA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing panel or officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate. [966.56 (f)]

The complainant or the THA may arrange in advance, at expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript. [966.56 (g)]

THA must 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 Resident is visually impaired, any notice to the Resident which is required under this procedure must be in an accessible format. [966.56 (h)]

If a hearing panel member or officer fails to disqualify himself/herself as required in Section V.A, THA will remove the panel member or officer from the hearing committee, invalidate the results of the hearing and schedule a new hearing with a new hearing panel or officer.

IX. Failure to appear at the hearing

If the complainant fails to appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the complainant appears within 30 minutes of the scheduled time, the hearing will be held. If the complainant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear. [966.56 (d)]

Both the complainant and the THA shall be notified of the determination by the hearing panel or officer; 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 THA's disposition of the grievance in court. [966.56 (d)]

X. Decision of the hearing panel or officer [966.57]

The hearing panel or-officer shall prepare a written decision, together with the reasons for the decision within ten working days after the hearing. A copy of the decision shall be sent to the complainant and the THA.

The THA shall retain a copy of the decision in the Resident's folder. A copy of the decision with all names and identifying references deleted. Shall also be maintained on file by THA and made available for inspection by a prospective complainant, his representative, or the hearing panel or officer.

The decision of the hearing panel or officer shall be binding on THA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the THA's Board of Commissioners determines within thirty working days and promptly notifies the complainant of its determination within in ten that:

- A. The grievance does not concern THA action or failure to act in accordance with or involving the complainant's lease or THA regulations, which adversely affect the complainant's rights, duties, welfare or status.
- B. The decision of the hearing panel or officer is contrary to applicable Federal, State or local law, HUD regulations, requirements of the annual contributions contract between HUD and the THA.
- C. **Continuing Right of Complainant to Judicial Proceedings**

A decision by the hearing panel or officer or Board of Commissioners in favor of the THA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any way, the rights of the complainant to a trial or judicial review in any court proceedings which may be brought in the matter later. [966.57]

XI Concurrent Notice:

If a resident has filed a request for grievance hearing hereunder in a case involving THA's notice of termination of tenancy, the complainant should be aware of THA's notice to vacate required by the laws of the state of Florida and the notice of termination of tenancy required under federal law run concurrently. Therefore, if the hearing officer panel upholds THA's action to terminate the tenancy, THA may commence an eviction action in court upon the sooner of, the expiration of the date for termination of tenancy and vacation of premises stated in the notice of termination delivered to Complainant, or delivery of the report of the hearing officer or panel to the Complainant.