

HOUSING AUTHORITY OF THE TOWN OF BEAUFORT

GRIEVANCE PROCEDURE POLICY

I. Definitions Applicable to the Grievance Procedure:

- A. **Grievance:** Any dispute which a Tenant may have in respect to AUTHORITY action or failure to act in accordance with the individual Tenant's lease or AUTHORITY regulations which adversely affects the individual Tenant's rights, duties, welfare or status.
- B. **Complainant:** Any Tenant (as defined below) whose grievance is presented to the AUTHORITY (at the central office or the development office) in accordance with the requirements presented in this procedure.
- C. **Elements of Due Process:** An eviction action or termination of tenancy in a State or Local court in which the following procedural safeguards are required:
- 1) Adequate notice to the Tenant of the grounds for terminating the tenancy and for eviction;
 - 2) Right of the Tenant to be represented by counsel;
 - 3) Opportunity for the Tenant to refute the evidence presented by the AUTHORITY, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have; 4) A decision on the merits.
- D. **Hearing Officer:** A person selected to hear grievances and render a decision with respect thereto.
- E. **Hearing Panel:** A three member panel selected to hear grievances and render a decision with respect thereto.
- F. **Tenant:** The adult person (or persons) (other than a live-in aide): (1) Who resides in the unit, and who executed the lease with the AUTHORITY 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 Tenant family residing in the dwelling unit.
- G. **Resident Organization:** An organization of residents, which also includes a resident management corporation.

II. Applicability of This Grievance Procedure:

In accordance with the applicable Federal regulations this grievance procedure shall be applicable to all individual grievances (as defined in Section I above) between Tenant and the AUTHORITY with the following two exceptions:

- A. Because HUD had issued a due process determination that the law of the State of North Carolina requires that Tenants 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 tenancy or eviction that involves:

- 1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents, guests, employees, contractors, or agents of the AUTHORITY, or;
- 2) Any drug related criminal activity on or off such premises.

B. The AUTHORITY grievance procedure shall not be applicable to disputes between Tenants not involving the AUTHORITY 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 tenants and the AUTHORITY's Board of Commissioners.

This grievance procedure is incorporated by reference in all Tenant dwelling leases and will be furnished to each Tenant and all resident organizations.

Any changes proposed in this grievance procedure must provide for at least 30 days notice to Tenants and the resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the AUTHORITY before any revisions are made to the grievance procedure.

III. Informal Settlement of a Grievance:

Any grievance must be personally presented, either orally or in writing, to the AUTHORITY's central office within five (5) working days after the grievable event. Grievances received by the AUTHORITY's central office will be referred to the person responsible for the management of the office.

As soon as the grievance is received, it will be reviewed by the management office to be certain that neither of the exclusions in paragraph II. A or II. B 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 the AUTHORITY's grievance procedure, with the reason therefore.

If neither of the exclusions cited above apply, the complainant will be contacted within five (5) working days to arrange a mutually convenient time 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 will attempt to settle the grievance to the satisfaction of both parties.

Within five (5) working days following the informal discussion, the AUTHORITY shall prepare and either give or mail to the Tenant a summary of the discussion that must specify the names of the participants, the dates of the meeting, the nature of the proposed disposition of the complaint and the procedure if the complainant is not satisfied. A copy of this summary shall also be placed in Tenant's file.

IV. Formal Grievance Hearing:

If the complainant 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 after the summary of the informal hearing is received. 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 discussion. The written request shall specify:

The reason for the grievance;

The action of relief sought from the AUTHORITY; and

Several dates and times in the following five (5) working days when the complainant can attend a grievance hearing.

If the complainant requests a hearing in a timely manner, the AUTHORITY shall schedule a hearing on the grievance at the earliest time possible for the complainant, AUTHORITY and the hearing officer.

If the complainant fails to request a hearing within five (5) working days after receiving the summary of the informal hearing, the AUTHORITY 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.

Failure to request a grievance hearing does not affect a complainant's right to contest the AUTHORITY's decision in a court hearing.

V. Selecting the Hearing Officer:

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

- A. The AUTHORITY Board of Commissioners will appoint at least three members of the local community to serve as the Hearing Officer.
- B. These appointments shall be submitted to the AUTHORITY's resident organizations. Written comments from the organizations shall be considered by the AUTHORITY before the final appointment of the hearing officers.

VI. Escrow Deposit Required for a Hearing Involving Rent:

Before a hearing is scheduled in any grievance involving the amount of rent which the AUTHORITY claims is due under this lease, the complainant shall pay to the AUTHORITY 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 AUTHORITY.

VII. Scheduling Hearings:

When a complainant submits a timely request for a grievance hearing, the AUTHORITY will immediately contact the hearing officer to schedule the hearing on one of the dates and times indicated by the complainant.

Once the hearing officer has agreed upon the hearing date and time, the complainant shall be notified 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:

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



- A. The opportunity to examine, before the hearing, AUTHORITY documents, including records and regulations, which are directly relevant to the hearing. The Tenant shall be allowed to copy any such documents at the Tenant's expense. If the AUTHORITY does not make the documents available for examination upon request by the complainant, the AUTHORITY may not rely on such documents at the grievance hearing.
- B. The right to be represented by counsel or other person chosen as the Tenant's representative and to have such person make statements on the tenant's behalf.
- C. The right to a private hearing unless the complainant requests a public hearing. The right to present evidence relied on by the AUTHORITY or project management, and to confront and cross examine all witnesses upon whose testimony or information the AUTHORITY or project management relies; and
- D. A decision based solely and exclusively upon the facts presented at the hearing. The hearing officer may render a decision without proceeding with the hearing if he/she determines that the issue has been previously decided in another proceeding.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and, thereafter, the AUTHORITY must sustain the burden of justifying the AUTHORITY's action or failure to act against which the complaint is directed. The hearing shall be conducted informally by the hearing officer. Oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer shall require the AUTHORITY, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing 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.

The complainant or the AUTHORITY may arrange in advance, and at expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

The AUTHORITY must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants. If the Tenant is visually impaired, any notice to the Tenant which is required under this procedure must be in an accessible format.

IX. Failure to Appear at the Hearing:

If the complainant or the AUTHORITY fails to appear at the scheduled hearing, the hearing officer may make a determination to postpone the hearing for not to exceed five (5) working days, or may make a determination that the party waived has a right to a hearing. Both the complainant and the AUTHORITY shall be notified of the determination by the hearing officer; provided, that a determination that the complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest the AUTHORITY's disposition of the grievance in court.



X. Decision of the Hearing Officer:

The hearing officer shall prepare a written decision, together with the reason for the decision within five (5) working days after the hearing. A copy of the decision shall be sent to the complainant and the AUTHORITY.

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

The decision of the hearing officer shall be binding on the AUTHORITY which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the AUTHORITY's Board of Commissioners determines, no later than its next regularly scheduled meeting, and promptly notifies the complainant of its determination that:

- A. The grievance does not concern AUTHORITY action or failure to act in accordance with or involving the complainant's lease or AUTHORITY regulations, which adversely affect the complainant's rights, duties, welfare or status.
- B. The decision of the hearing officer is contrary to applicable Federal, State or Local Law, HUD regulations, or requirements of the annual contributions contract between HUD and the AUTHORITY.
- C. A decision by the hearing officer or Board of Commissioners in favor of the AUTHORITY 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 of judicial review in any court proceedings which may be brought in the matter later.

