

# GRINDE MANOR GRIEVANCE PROCEDURE

## I. Definitions Applicable to the Grievance Procedure.

- A. Grievance: Any dispute a Tenant may have with respect to FHA action or failure to act in accordance with the individual Tenant's lease or FHA regulations that adversely affects the individual Tenant's rights, duties, welfare or status.
- B. Complainant: Any Tenant (as defined below) whose grievance is presented to the FHA at the main office at 501 E. Iowa Avenue, Fountain, CO 80817 in accordance with the requirements presented in this procedure.
- C. Elements of due process: An eviction action or a 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 FHA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have; and
  - 4) A decision on the merits of the case.
- D. Hearing Officer: A person selected in accordance with this procedure to hear grievances and render a decision with respect thereto.
- E. 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 FHA 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.
- F. Resident Organization: An organization of residents, which also may include a resident management corporation.

## II. Applicability of 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 FHA with the following two exceptions:

- A. Because HUD has issued a due process determination that the law of the State of Colorado requires that a Tenant 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 or employees of the FHA, 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.

B. The FHA grievance procedure shall not be applicable to disputes between Tenants not involving the FHA 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 FHA'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 Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the FHA 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 FHA's main office **within ten working days** after the grievable event so that the grievance may be discussed informally and settled without a hearing.

As soon as the grievance is received, it will be reviewed by the FHA, to be certain that neither of the exclusions in paragraphs 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 FHA's grievance procedure, with the reason therefor.

If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time **within ten working days** to meet so the grievance may be discussed informally and settled without a hearing. At the informal discussion the complainant will present the grievance and the FHA will attempt to settle the grievance to the satisfaction of both parties.

**Within five working days** following the informal discussion, the FHA shall prepare and either hand deliver or mail to Tenant a summary of the discussion 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 therefor, 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 Tenant'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 discussion.

#### **IV. Formal Grievance Hearing.**

If the complainant is dissatisfied with the settlement arrived at in the informal discussion, the complainant must submit a written request for a hearing to the FHA Executive Director **no later than five working days after the summary of the informal hearing is received.**

The written request shall specify:

- A. The reasons for the grievance;
- B. The action of relief sought from the FHA; and
- C. Several dates and times **in the following ten working days** when the complainant can attend a grievance hearing.

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

If the complainant fails to request a hearing within five working days after receiving the summary of the informal hearing, the FHA's decision rendered at the informal hearing becomes final and the FHA 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 the complainant's right to contest the FHA's decision in a court hearing.

#### **V. Selecting the Hearing Officer.**

A grievance hearing shall be conducted by an impartial person or persons appointed by the FHA, after consultation with residents, and shall be a person other than a person who made or approved the FHA action under review or a subordinate of such person.

- A. The FHA shall nominate a slate of impartial persons to sit as hearing officers. Such persons may include FHA Board members, FHA staff members, residents, professional arbitrators, or others. The initial slate of nominees shall be at least five persons.
- B. The FHA 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.
- C. 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.

- D. A slate of potential hearing officers nominated by the FHA shall be submitted to the Residents or Resident Organizations. Written comments from the organizations shall be considered by the FHA before the nominees are appointed as hearing officers or panel members.
- E. When the comments from the Residents or Resident Organizations have been received and considered, the nominees will be informed that they are the FHA's official grievance hearing committee.

The FHA will subsequently contact committee members in random order to request their participation as 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 FHA claims is due under this lease, the complainant shall pay to the FHA 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.

This requirement will not be waived by the FHA unless the complainant is paying minimum rent and the grievance is based on a request for a hardship exemption or the tenant'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.**

When a complainant submits a timely request for a grievance hearing, the FHA will immediately contact hearing committee members in random order to request their participation as a hearing officer and to schedule the hearing within the following ten working days on one of the dates and times indicated by the complainant.

Once a hearing is scheduled, a written notification specifying the time, place and procedures governing the hearing shall be delivered to the hearing officer, the complainant and the appropriate FHA staff member. Notice to the complainant shall be in writing, either personally delivered to complainant or sent by mail, return receipt requested.

#### **VIII. Procedures Governing the Hearing.**

The hearing shall be held before a 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 FHA documents, including records and regulations, that are directly relevant to the hearing.

The Tenant shall be allowed to copy any such document at the Tenant's expense. If the FHA does not make the document available for examination upon request by the complainant, the FHA may not rely on such document 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 makes 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 and arguments in support of the Tenant's complaint to controvert evidence relied on by the FHA or project management, and to confront and cross examine all witnesses upon whose testimony or information the FHA or project management relies; and
- D. A decision based solely and exclusively upon the fact presented at the hearing.

The hearing officer may render a decision without proceeding with the hearing if they determine 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 FHA must sustain the burden of justifying the FHA 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 complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The hearing officer shall require the FHA, 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 FHA 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.

The FHA 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 Tenant is visually impaired, any notice to the Tenant which is required under this procedure must be in an accessible format.

If a hearing officer fails to disqualify himself/herself as required in Section V.A, the FHA 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 officer.

## **IX. Failure to Appear at the Hearing.**

If the complainant or the FHA fails to appear at the scheduled hearing, the hearing officer may make a determination to postpone the hearing **for not to exceed five business days**, or may make a determination that the party has waived his right to a hearing.

Both the complainant and the FHA shall be notified of the determination by the hearing 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 the FHA's disposition of the grievance in court.

## **X. Decision of the Hearing Officer.**

The hearing 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 FHA.

The FHA 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 FHA 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 FHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the FHA's Board of Commissioners determines within ten working days, and promptly notifies the complainant of its determination that:

- A. The grievance does not concern FHA action or failure to act in accordance with or involving the complainant's lease or FHA 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 FHA.
- C. A decision by the hearing officer or Board of Commissioners in favor of the FHA 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.

Grievances related to complaints about operational matters that are received by the FHA's main office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Executive Director.