

# GRANITE CITY HOUSING AUTHORITY

## GRIEVANCE PROCEDURE

### SECTION 1 - PURPOSE AND SCOPE

The purpose of this Grievance Procedure is to set forth the requirements, standards and criteria for a grievance procedure to be established and implemented by the Granite City Housing Authority to assure that tenants of the Authority are afforded an opportunity for a hearing if the tenant disputes within a reasonable time any Authority action or failure to act involving the tenant's rights, duties or welfare of status. The grievance procedure shall be incorporated in the dwelling leases by reference.

### SECTION 2 - APPLICABILITY

The Grievance Procedure shall be applicable to all individual grievances between the tenant and Granite City Housing Authority, except as follows:

- A. Any drug-related criminal activity on or near the Tenant's premises;
- B. A grievance concerning an eviction or termination of tenancy based upon criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of GCHA;
- C. Disputes between tenants not involving GCHA or to class grievances.

### SECTION 3 - DEFINITIONS

For the purpose of the grievance procedure, the following definitions are applicable:

- (A) "Grievance" shall mean any dispute which a tenant may have with respect to the Granite City Housing Authority's action or failure to act in accordance with the individual tenant's lease or the Authority's regulations which adversely affect the individual tenant's rights, duties, welfare or status.
- (B) "Complainant" shall mean any tenant whose grievance is presented to the Authority or at the project management office in accordance with Section 4 and Section 5 of this procedure.
- (C) "Hearing Panel" or "Hearing Officer" shall mean a panel or person selected in accordance with Section 6 to hear grievances and render a decision thereto.
- (D) "Tenant" shall mean the adult person or persons who reside in the Unit and who executed the Lease with GCHA, or if no such person now resides in the Unit, a person who resides in the Unit and who is the remaining Head of Household of the Tenant Family residing in the dwelling Unit.

### SECTION 4 - INFORMAL SETTLEMENT OF GRIEVANCE

Any grievance shall be personally presented, either orally or in writing, to the Authority office or to the office of the project in which the complainant resides. The request for a grievance shall be requested on or before the date of termination stated in the Notice of Termination. The Authority and Tenant shall then arrange a time to discuss the grievance informally in an attempt to resolve the grievance without a hearing. A summary of such discussion shall be prepared within five (5) days and one (1) copy shall be sent to the tenant by certified mail and one (1) retained in the Authority's tenant 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 reason therefore, and shall specify the procedures by which a hearing under Section 5 may be obtained if the complainant is not satisfied.

## SECTION 5 - PROCEDURE TO OBTAIN A HEARING

The complainant shall submit a written request, to the Authority or to the project office within five (5) days after receipt of the summary of discussion pursuant to Section 4. The written request shall specify the reasons for the grievance and the action or relief sought.

## SECTION 6 - SELECTION OF HEARING OFFICER OR HEARING PANEL

A grievance hearing shall be conducted by an impartial person or persons appointed by GCHA. The Hearing Officer shall be a person other than the person who made or approved the GCHA action under review.

The appointment of a Hearing Officer or a Hearing Panel shall be by the Executive Director of the Authority.

If there are resident organizations, GCHA shall consult with such organizations prior to the appointment of a Hearing Officer or a Hearing Panel. Any comments or recommendations submitted by the resident organizations shall be considered before the appointment.

## SECTION 7 - FAILURE TO REQUEST A HEARING

If the complainant does not request a hearing in accordance with this procedure, then the Authority's disposition of the grievance under Section 4 shall become final. Provided, that failure to request a hearing shall not constitute a waiver by the complainant of his right thereafter to contest the Authority's action in disposing of the complaint in an appropriate judicial proceeding.

## SECTION 8 - HEARING PREREQUISITE

All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in Section 5 as a condition precedent to a hearing under this section. Provided, that if the complainant shall show good cause why he failed to proceed in accordance with Section 5 to the Hearing Panel, the provisions of this section may be waived by the Hearing Officer or Hearing Panel.

## SECTION 9 - ESCROW DEPOSIT

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Authority claims is due, the complainant shall pay to the Authority an amount equal to the amount of 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 Panel. These requirements may be waived by the Authority 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 complainant may have to contest the Authority's disposition of his grievance in any appropriate judicial proceeding.

## SECTION 10 - SCHEDULING OF HEARINGS

Upon complainant's compliance with Section 5, Section 8, and Section 9 of this section, a hearing shall be scheduled by the Hearing Officer or Hearing Panel promptly for a time and place reasonably convenient to both the complainant and the Authority. A written notification specifying the time, place and the procedure governing the hearing shall be delivered to the complainant and the appropriate Authority official.

## SECTION 11 - HEARING

- (a) The hearing shall be held before a Hearing Officer or Hearing Panel.

- (b) The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:
1. The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents, records, and regulations of the Authority that are relevant to the hearing. Any document not so made available after request therefor by the complainant may not be relied on by the Authority at the hearing;
  2. The right to be represented by counsel or other person chosen as his or her representative;
  3. The right to private hearing unless the complainant requests a public hearing;
  4. The right to present evidence and arguments in support of his or her complaint, to controvert evidence relied on by the Authority or project management, and to confront and cross-examine all witnesses on whose testimony or information the Authority or project management relies; and
  5. A decision based solely and exclusively upon the facts presented at the hearing.
- (c) The Hearing Officer or Hearing Panel may render a decision without proceeding with the hearing if the Hearing Officer or Hearing Panel determines that the issue has been previously decided in another proceeding.
- (d) If the complainant or the Authority fails to appear at a scheduled hearing, the Hearing Officer or Hearing Panel 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 Authority shall be notified of the determination by the Hearing Officer or 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 the Authority's disposition of the grievance in an appropriate judicial proceeding.
- (e) 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.
- (f) The hearing shall be conducted informally by the Hearing Officer or 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 Officer or Hearing Panel 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 Panel 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.
- (g) The complainant or the Authority may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

## SECTION 12 - DECISION OF HEARING PANEL

- (a) The Hearing Officer or Hearing Panel shall prepare a written decision, together with the reasons therefor, within a reasonable time 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 such 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 or Hearing Panel.

- (b) The decision of the Hearing Officer or Hearing Panel 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 within a reasonable time, and promptly notifies the complainant of its determination, that
  - (1) The grievance does not concern Authority action or failure to act in accordance with or involving the complainant's lease on Authority regulations, which adversely affect the complainant's rights, duties, welfare or status.
  - (2) The decision of the Hearing Officer or Hearing Panel 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 Hearing Panel, 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 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.

#### SECTION 13 - EVICTION ACTION

If a tenant has requested a hearing in accordance with Section 5 on a complaint involving an Authority notice of termination of the tenancy and the Hearing Panel upholds the Authority's action to terminate the tenancy, the Authority shall not commence an eviction action in a State or local court until it has served a notice to vacate on the tenant, and in no event shall the notice to vacate be issued prior to the decision of the hearing panel having been mailed or delivered to the complainant. Such notice to vacate must be in writing and specify that if the tenant fails to quit the premises within the applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate action will be brought against him and he may be required to pay court costs and attorney fees.