

SPRINGFIELD HOUSING AUTHORITY GRIEVANCE PROCEDURE

I. PURPOSE

This grievance procedure has been adopted to provide a forum and procedure for tenants to seek the just, effective and efficient settlement of grievances against the Springfield Housing Authority (SHA).

II. GOVERNING LAW

The law governing this grievance procedure is section 6(k) of the U. S. Housing Act of 1937 (2 U.S.C. sec. 1437d (k) and subpart B of 24 CFR part 966 (24 CFR sects. 966.50 – 966.57).

III. APPLICABILITY

In accordance with applicable federal regulations, this grievance procedure shall be applicable to all individual grievances (as defined in Section IV below) between Tenant and SHA with the following two (2) exceptions.

- A. This grievance procedure is not applicable to disputes between Tenants not involving SHA, or to class grievances involving groups of Tenants. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between Tenants or groups of Tenants and SHA's Board of Commissioners.
- B. HUD has issued a due process determination that the law of the State of Illinois requires that Tenants be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in Section IV below) before eviction from a dwelling unit. Therefore, SHA has elected to determine that this 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 SHA, or
 - (2) Any drug related activity on or near such premises.

IV. DEFINITIONS

The following definitions of terms shall be applicable to this grievance procedure:

- A. **GRIEVANCE:** Any dispute which a Tenant may have with respect to an action or a failure to act by SHA in accordance with the individual Tenant's rights, duties, welfare or status.

- B. CFR: The code of federal regulations, which contains the federal regulation governing this grievance procedure.
- C. COMPLAINANT: Any Tenant (as defined in this section below) whose grievance is presented to the Administrative office of SHA or to the Development Office of the Development wherein the tenant resides in accordance with SHA requirements.
- D. DRUG-RELATED CRIMINAL ACTIVITY: The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use of a controlled substance, as defined by the Federal Code and Illinois statutes as from time to time amended.
- E. SHA OR "AUTHORITY": The Springfield Housing Authority, a corporate organized and existing under the laws of the State of Illinois.
- F. ESCROW: A bank account created by the SHA separate from normal operating funds. Money in this account is held pending the decision of the Hearing Officer or panel.
- G. HEARING OFFICER: An impartial person selected in accordance with 24 CFR sect. 966.55 and this grievance procedure to hear grievances and render decisions with respect thereto.
- H. HEARING PANEL: A three-member panel composed of impartial persons, selected in accordance with 24 CFR sect. 966.55 and this procedure to hear grievances and render decisions with respect thereto.
- I. HUD: The United States Department of Housing and Urban Development.
- J. NOTICE: As used herein, the term notice shall, unless otherwise specifically provided, mean written notice.
- K. THE "REGULATIONS": The HUD regulations contained in subpart B of 24 CFR part 966.
- L. RESIDENT ORGANIZATION: Means any duly elected resident council.
- M. TENANT: The adult person (or persons) other than a live-in aid:
 - (1) Who resides in the unit and who executed the lease with SHA as lessee of the dwelling unit, or, if no such persons reside in the unit,
 - (2) The person who resides in the unit, and who is the remaining head of the household of the Tenant family residing in the dwelling unit.

- N. **BUSINESS DAYS:** Monday through Friday of each week, except for legal holidays recognized by the federal government or the State of Illinois and SHA.

V. INCORPORATION IN LEASES

This grievance procedure shall be incorporated by reference in all public housing dwelling leases between Tenants and SHA, whether or not so specifically provided in such leases.

VI. INFORMAL SETTLEMENT OF GRIEVANCES.

- A. **Initial Presentation.** Any grievance must be personally presented either orally or in writing to SHA's main office, or to the Site Manager's Office of the development wherein the complainant resides. Grievance or complaint form must be signed by the complainant or their representative and filed in the office within five (5) business days after the occurrence of the event giving rise to the grievance. All complaints shall be date stamped or dated and signed by SHA staff at the time of receipt by the SHA and a copy provided to the complainant.
- B. **Informal Settlement Conference.** If the grievance is not determined by SHA to fall within one of the two exclusions mentioned in section III above, then SHA will, within a reasonable period of time after the initial presentation of the grievance, informally discuss the grievance with the complainant or his representatives in an attempt to settle the grievance without the necessity of a formal hearing. If the informal settlement conference cannot occur at the time the grievance is initially presented by the complainant, then the complainant will be promptly notified in writing of the time and place for the informal settlement conference. The SHA will not allow the person who initiates the lease violation, ineligibility determination, or associated actions culminating in the grievance, to be the only SHA representative present at the settlement conference.
- C. **Written Summary.** Within five (5) business days after the informal settlement conference, a summary of the informal discussion shall be prepared by SHA and a copy thereof shall be forwarded to the complainant. The summary shall be in writing and shall specify the names of the participants in the discussion, the date of the discussion, the nature of the proposed disposition of the grievance, and the specific reasons for such disposition. This written summary will also specify the procedures by which the complainant may obtain a formal hearing if not satisfied by the proposed disposition of the grievance. A copy of the written summary shall also be placed in complainant's tenant file. The summary shall be provided in the complainant's native language if the complainant is not fluent in English.

VII. FORMAL GRIEVANC HEARING

The following procedures apply to the request for a formal grievance procedure.

- A. Request for Hearing. If the Complainant is not satisfied with the results of the informal settlement conference, the Complainant or his agent must personally present in writing to the SHA's main office or the site management office of the development wherein the complainant resides a written request for a formal hearing. This written request must be received no later than five (5) business days after the date Complainant receives the summary of discussion delivered as required under Section VI above. Complainant's written request for a formal hearing must specify:
- (1) The reasons for the grievance; and
 - (2) The action or relief sought by the complainant; and
 - (3) If the complainant so desires, a statement setting forth the times at which the complainant will be available for a hearing during the next ten (10) business days; and
 - (4) If the complainant has failed to attend an informal discussion conference, a request that the officer or panel waive this requirement.
- B. Failure to Request Hearing. If the complainant fails to request a hearing within five (5) business days after receiving the written summary of the informal settlement conference, SHA's decision rendered at the informal hearing becomes final and SHA is not thereafter obligated to offer the complainant a formal hearing.

VIII. SELECTION OF HEARING OFFICER OR PANEL

All grievance hearings shall be conducted by an impartial person or persons appointed by SHA after consultation with resident organizations, in the manner described below:

- A. The permanent appointments of persons who shall serve as hearing officers and hearing panel members shall be governed by the following procedures:
- (1) SHA shall nominate a slate of persons to sit as permanent hearing officers or hearing panel members. These persons may include, but will not be necessarily limited to, staff members, or other responsible persons in the community. No persons shall be listed on the slate of members unless such person has consented to serve as a hearing officer or on a hearing panel.
 - (2) The slate of potential appointees shall be submitted to all SHA resident councils for written comments. Written comments from the resident organization shall be considered by SHA before appointments are finally made. Objection to the appointment of a person as a hearing officer or

panelist must be considered, but is not dispositive as to the proposed appointment with respect to which objection is made.

- (3) On final appointment, the persons appointed and resident organizations shall be informed in writing of the appointments. A list of all qualified hearing officers and panelists will be kept at the central office of SHA and be made available for public inspection at any time.

The persons who are presently appointed to serve as hearing panelists for grievances brought under this procedure are listed on Exhibit1 attached hereto and hereby incorporated herein by reference. Additional appointments shall be made in the manner set forth in this section.

B. The designation of hearing officers or panel members for particular grievance hearings shall be governed by the following provisions:

- (1) All hearing will be held before a single hearing officer unless SHA Executive Director deems it necessary that a hearing panel hear the grievance.
- (2) Appointments to serve as a hearing officer or panelist with respect to a particular grievance shall be made by SHA in random order, subject to availability of the hearing officer or panelist to serve in each such case. SHA may employ any reasonable system for random order choice.
- (3) No member of the SHA Board of Commissioners or staff may be appointed as hearing officer or panelist in connection with the grievance contesting an action which was either made or approved by proposed appointee, or which was made or approved by a person under whom the proposed appointee works or serves as a subordinate.
- (4) No person shall accept an appointment, once selected as a hearing officer or hearing panelist, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as hearing officers or panelist must disqualify themselves from hearing grievances that involve personal friends, relatives, persons with whom they have any business relationship, or grievance in which they have some personal interest. Further, such persons are expected to disqualify themselves if the circumstances are such that a significant perception of partiality exists and is reasonable under the circumstances. If a complainant fails to object to the designation of the hearing officer or panelist on the grounds of partiality, at the commencement or before the hearing, such objection is deemed to be waived, and may not thereafter be made.

In the event that a hearing officer or panel member fails to disqualify himself or herself as required in this grievance procedure, SHA will remove the panel member or officer from the list of persons appointed for such purposes, invalidate the results of the grievance hearing in which such person should have but did not, disqualify himself or herself as required in this grievance procedure, SHA will remove the panel member or officer from the list of persons appointed for such purpose, invalidate the results of the grievance hearing in which such person should have but did not, disqualify himself or herself, and schedule a new hearing with a new hearing panel or officer.

IX. SCHEDULING OF HEARINGS

A. Hearing prerequisites: A complainant does not have a right to a grievance hearing unless the complainant has satisfied the following prerequisites to such a hearing:

- (1) The complainant has requested a hearing in writing.
- (2) The complainant has completed the informal settlement conference procedure or has requested a wavier for a good cause.
- (3) If the matter involves the amount of rent which SHA claims is due under the complainant's lease, the complainant shall have paid to SHA an amount equal to the amount due and payable as of the first of the month preceding the month in which the complained of act or failure to act took place. And, in the case of situations in which hearings are, for any reason, delayed, the complainant shall thereafter, deposit the same amount of the monthly rent in an escrow account on or before the first of the month until the complaint is resolved by decision of the hearing officer or hearing panel, unless waived by SHA in writing. No wavier shall be given by SHA except in cases of extreme and undue hardship on the complainant, determined in the sole and absolute discretion of SHA.
- (4) 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 wavier of any right the complainant may have to contest the SHA's disposition of his grievance in any appropriate judicial proceedings.

B. TIME, PLACE, NOTICE.

- (1) Upon complainant's compliance with the prerequisites to hearing set forth above, 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 SHA, not later than the tenth (10th) business day after

complainant has completed such compliance. (In the case of a panel, if all three (3) appointed members of the panel are not able to agree upon a date and time convenient to all panelists, on or before the last date before the hearing permitted under this procedure, they shall immediately so inform SHA. If two (2) panelists can agree upon a date and time, SHA shall reappoint a third panelist who shall be available at the time agreed upon by the two (2) who can agree. If none of the panelists can agree upon a time, a new panel shall be appointed.)

- (2) A written notification specifying the time, place, and the procedure governing the hearing shall be delivered to the complainant and the appropriate SHA official, who, unless otherwise designated, shall be the Executive Director.

X. PROCEDURES GOVERNING HEARING

A. Fair Hearings.

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

- (1) The opportunity to examine before the hearing any SHA documents, including records and regulations that are directly relevant to the hearing

The complainant will be allowed to copy any such document at the complainant's expense. If SHA does not make the document available within a reasonable time for examination upon request by the complainant, SHA may not rely on such document at the grievance hearing.

The SHA will be allowed to copy any documentary evidence at the SHA's expense, which the complainant intends to enter as fact to the hearing. If the complainant does not make the document available for examination upon request by the SHA, complainant may not rely on such document at grievance hearing.

- (2) The right to be represented by counsel or other person chosen as the complainant's representative and to have such person make statements on the complainants behalf. If the complainant cannot afford an attorney, then he/she may contact the Land of Lincoln Legal Assistance Foundation at 753-3300.
- (3) The right to a private hearing, unless the complainant requests and the Hearing officer agrees to a public hearing.

- (4) The right to present evidence and arguments in support of the complainant's complaint, to controvert evidence relied on by SHA and to confront and cross examine all witness upon whose testimony or information the SHA or its management relies; and
- (5) A decision based solely and exclusively upon the facts presented at the hearing.

B. Prior Decision in Same Matter.

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.

C. Failure to Appear.

If the complainant or SHA fails to appear at the scheduled hearing, the hearing officer or hearing panel may make the determination that the party failing to attend has waived the right to a hearing. In such event, the hearing officer or hearing panel shall notify the complainant and SHA of the determination. The failure to attend a grievance hearing shall not constitute a wavier of any right which the complainant may have to contest SHA disposition of the grievance in an appropriate judicial proceeding.

D. Postponement of Hearing.

The hearing may be postponed for up to 5 business days if neither the tenant nor Housing Authority representative does not appear for the original hearing at the sole discretion of the hearing officer

E. Required Showing of Entitlement to Relief.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter SHA must sustain the burden of justifying SHA action or failure to act against which the complaint is directed.

F. Informality of Hearing.

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 receive without regard to admissibility under the rules of evidence applicable to judicial proceeding.

G. Orderly Conduct Required.

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

H. Transcript of hearing.

The complainant or the SHA 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.

I. Accommodation to Handicapped Person.

SHA must provide reasonable accommodations for persons with disabilities to participate in grievance hearings. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations or attendants. Need for accommodations must be presented at time of first submission or grievance; see attached grievance form.

XI. DECISION OF THE HEARING OFFICER OR HEARING PANEL

At or subsequent to the completion of the grievance hearing, the hearing officer or panel shall make a determination as to the merits of the grievance and the following provisions shall govern:

A. Written Decision.

The hearing panel or officer shall prepare a written decision together with the reasons for the decision within ten (10) business days after the completion of the hearing.

- (1) A copy of the decision shall be sent to the complainant and SHA. SHA shall retain a copy of the decision in the complainant's tenant folder.
- (2) A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by SHA and made available for inspection by any prospective complainant, his representative, or the hearing panel or hearing officer

B. Binding Effect.

The written decision of the hearing officer or hearing panel shall be binding upon SHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless (1) SHA's Board of Commissioners determines, within ten (10) business days and properly notifies the complainant of its determination, that 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 SHA or (2) the grievance does not concern SHA action or failure to act.

C. Continuing Right of Complainant to Judicial Proceedings.

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

XII. NOTICES

All notices under this grievance procedure shall be deemed delivered: (1) upon personal service thereof upon the complainant or an adult member of the complainant's household, (2) upon the date received for or refused by the addressee, in the case of certified or registered U.S. Mail, or (3) on the second day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

If a Tenant is visually impaired, any notice hereunder delivered to such Tenant shall be in an accessible format.

XIII. MODIFICATION

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of SHA, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the foregoing, any changes proposed to be made to this grievance procedure must provide for at least thirty (30) days advance notice to tenants resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by SHA, before final adoption of any amendments hereto.

XIV. MISCELLANEOUS

A. Captions: Captions or paragraph headings set forth in this grievance procedure are for convenience of reference only and shall not be construed or interpreted to affect the substance of the paragraphs or sections so captioned.

- B. **Concurrent Notice:** If a Tenant has filed a request for grievance hearing hereunder in a case involving SHA's notice of termination of tenancy, the complainant should be aware that the state law notice to vacate and the notice of termination of tenancy required under Federal law run concurrently. Therefore, if the hearing officer or hearing panel upholds SHA's action to terminate the tenancy, SHA 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 the delivery of the report of decision of the hearing officer or panel to complainant.