

PERRY METROPOLITAN HOUSING AUTHORITY

TENANT GRIEVANCE POLICY and PROCEDURE

PURPOSE: To establish a procedure to resolve tenant/management disputes and provide the opportunity to the tenant to an informal conference and formal hearing, if so requested, as set forth in the following sections of 24 CFR:

966.4 Lease Requirements;
966.51 Applicability;
966.56 Procedures Governing the Hearing; and
966.57 Decision of the Hearing Officer or Hearing Panel

PRINCIPLE: To assure tenant is afforded the opportunity for a hearing (informal conference and formal hearing) if tenant disputes any action or failure to act by Perry Metropolitan Housing Authority regarding the dwelling lease and any PHA regulation(s) which adversely affect the individual tenant's rights, duties, welfare or status..

PROCEDURE:

Disputes concerning obligations of the tenant and/or Perry Metropolitan Housing Authority will be reviewed in the following order if the tenant involved properly requests the hearing:

- a. Informal Conference*
- b. Formal Hearing (Public Housing Only)*

Any adult 18 years of age and older currently occupying a dwelling unit under the jurisdiction of Perry Metropolitan Housing Authority, and who executed the lease with the HA may request a conference. If no such person now resides in the unit, the person who is now head of household for that family still residing in the dwelling may request a conference.

Perry Metropolitan Housing Authority must provide reasonable accommodation for persons with disabilities to participate in the conference and hearing. Reasonable accommodation may include qualified sign language interpreters, readers and accessible locations. If the tenant is visually impaired, any required notice to the tenant must be in an accessible format.

Pursuant to Title 24 of the CFR 966.4(l)(3)(v) Tenants are not entitled to a grievance hearing on a lease termination for the following:

1. Criminal activity that threatens the health, safety, or rights to peaceful enjoyment of the premises of other residents or employees of the PHA.
2. Drug-related criminal activity on or off the premises.

Judicial eviction procedure will be used by Perry MHA for the eviction of the tenant and HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations.

INFORMAL CONFERENCE:

Request for Informal Conference:

Tenants must request the conference in writing within forty-eight (48) hours after the date of the *issuance of a written complaint* or a *Preliminary Notice of Termination of Lease* or a *Notice of Lease Termination* or ten (10) days, if issued a *Notice of Non-Renewal of Dwelling Lease*. It shall be so noted that it is the responsibility of the Project Manager to make the determination that an infraction of the lease agreement has been committed and shall be responsible for the issuance of the lease termination. The Executive Director is not to be notified or consulted concerning this issue and shall only be notified of such after a lease termination/written complaint has been issued.

The request for a conference must be submitted in writing to the tenant's respective Management Office and must include the following:

1. Tenant's name
2. Tenant's address
3. Reason for the request for a conference
4. Action or relief sought by tenant
5. Signed and dated by tenant

Procedure Subsequent to Request for Informal Conference:

Upon receipt of the written request for a hearing, the PHA will notify the tenant in writing of the date, time and location of the conference on the appropriate form.

Attendance at Informal Conference:

Those required to be present for the informal conference will be the following:

1. Tenant(s) involved
2. Project Manager (public housing)
3. Any PHA staff (public housing) involved in the dispute
4. Program Supervisor (Section 8 Housing Choice Voucher)
5. Witness(es) to the dispute.

How Conducted:

The informal conference will be conducted as a private conference unless otherwise requested, in writing, by the tenant(s) involved and will be controlled by the Project Manager of the residence of the complainant unless said manager is a part of the dispute. In such an instance, another PMHA Project Manager shall conduct said conference. Written notes or tape recording of the informal conference shall be made by PMHA.

Within three (3) business days of the conclusion of the conference, PMHA will prepare a brief written summary of the conference that will contain the following:

1. Names of the participants
2. Date of informal conference
3. Brief outline of the discussion, the decision made on the issue and the reasons for the decision
4. The procedures by which a formal hearing may be requested if the complainant is not satisfied with the results of the informal conference.

A copy of the summary shall be mailed (proof of mailing obtained by PMHA) and/or hand delivered to all involved persons and a copy placed within the tenant's file (correspondence section).

Failure to Request Conference:

If the tenant fails to request the informal conference within the forty-eight (48) hour period as referenced in #3 above or fails to show at the conference, the tenant waives his/her right to any further grievance proceedings.

Objection to Informal Conference Decision:

If the tenant continues to disagree with the decision of the PMHA, he/she may file a written request for a formal hearing at the tenant's respective Management Office. PMHA must receive the request within forty-eight (48) hours from the date of the informal conference summary decision was received by the complainant. Said request for a formal hearing must include the following:

1. Tenant's name
2. Tenant's address
3. Reason for the request for hearing
4. Action or relief sought
5. Signed and dated by tenant

If the complainant fails to request a formal hearing, the disposition of the informal conference/grievance shall become final. However, failure to request a formal hearing, does not constitute a waiver by the complainant of his/her right thereafter to contest the PMHA's action in disposing of the complainant in an appropriate judicial proceeding.

FORMAL HEARING (Public Housing Only):

The formal hearing process is not required by HUD for the Section 8 Housing Choice Voucher program making the informal hearing the final decision through PMHA.

Hearing Panel:

Perry MHA has opted to use a hearing panel for the formal hearing. This panel shall consist of three (3) individuals appointed by Perry MHA. Those persons appointed to the hearing panel will consist of impartial persons who will provide a fair and non-biased review of the issue at hand.

Prior to the final appointment of the hearing panel, the proposed panel members' names will be provided to the Resident Organization. If the Resident Organization has any recommendations or objections, they shall immediately make a submission of its recommendations or objections in writing to the executive Director; if the Executive Director is part of the dispute, to the Board of Directors of Perry MHA. Panel members shall consist of the following:

1. Individual of Resident Organization: Said individual shall be the Chairperson/President of the Resident Organization if such person is not involved in the dispute that gave rise to the hearing. If said person is involved, then another person of the Resident Organization shall be selected by said organization.
2. Employee of Perry MHA: Said individual shall be selected by or be the Executive Director of Perry MHA so long as the Executive Director is not involved in the dispute that gave rise to the hearing. Said individual shall be non-involved employee of Perry MHA or a supervisor of the involved employee. If the Executive Director is involved in the subject dispute, the Perry MHA panel member will be appointed by its Board of Directors. Further, the Perry MHA member shall be a person other than one who made or approved the Perry MHA action under review or a subordinate of said person.
3. Individual with Housing Management Background: Said individual shall be selected by the Executive Director of Perry MHA and shall be a person who is not a resident of Perry MHA, who is not an employee of Perry MHA, and who has a background in housing management. If the Executive Director of Perry MHA is involved in the subject dispute, the Perry MHA Board of Directors shall appoint this panel member. Persons eligible to serve as this panel member shall be those who meet the criteria set forth within this paragraph, the criteria further described below, and who are associated with the apartment complexes (public or private) that are listed in current Ohio telephone directory.

Grievances Involving Rent:

Before a hearing is scheduled in any grievance involving the amount of rent that the PHA claims is due, the family must pay an escrow deposit to the Perry MHA. When a family is required to make an escrow deposit, the amount is the rent the Perry MHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit, the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing panel. The Perry MHA will waive the requirement for an escrow deposit where required by Section 5.630 or Title 24 of the CFR (financial hardship exemption from minimum rent requirements) or Section 5.615 or Title 24 of the CFR (effect of welfare benefits reduction in calculation of family income). Unless the PHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest in any appropriate judicial proceeding the Perry MHA's disposition of the grievance.

Attendance at Formal Hearing:

Those persons to be present for the formal hearing include the following:

1. Tenant(s) involved in the dispute which must be the same that attended the informal conference
2. A representative to speak for the tenant (if desired) and/or legal counsel
3. The Hearing Panel
4. Witnesses
5. A representative to speak for the Perry MHA and/or legal counsel

Private/Other Hearing:

The formal hearing will be conducted as a private hearing unless requested otherwise in writing by the tenant(s) involved.

Selection of Hearing Panel Chairperson:

The Executive Director of The Perry MHA shall choose an individual, who will serve as the head panel member or Chairperson. If the Executive Director is seated as a hearing member, he/she shall contact the two (2) remaining panel members and request they appoint the Chairperson. In this instance, the Executive Director shall abstain from the appointment process. The individual appointed to the position of Chairperson shall be instructed by the Executive Director of the duties of said position. These duties shall include the following list which is not inclusive:

1. Begin and conduct hearing in an informal manner
2. Record notes of hearing either in written, ~~or~~ tape-recorded, and/or digitally recorded form
3. Maintain order in hearing
4. Compile and send hearing summary to appropriate individuals
5. Schedule, prepare and deliver written notice of hearing date, time and place to the complainant, complainant's representative, hearing panel members and appropriate PMHA official(s). Perry MHA will provide appropriate forms, envelopes, and/or anything necessary to schedule, notify or do the scheduling/notification upon Chairperson's request.

Preparation of Hearing Panel Members:

Upon selection of the Hearing Panel, the Perry MHA shall send each panel member a copy of:

1. Complainant's request for a hearing
2. Perry MHA'S procedures for grievances, which includes the procedures governing the hearing and appropriate form to notify of the decision rendered
3. The informal conference summary decision leading to the hearing request
4. Scheduling notice
5. Form letter notifying them of date, time, and place of hearing

Procedures Governing the Hearing:

1. The hearing shall be held before the hearing panel, as appropriate.
2. The complainant shall be afforded a fair hearing which shall include the opportunity to examine before the grievance hearing any Perry MHA documents including records and regulations that are directly relevant to the hearing. (For a grievance hearing concerning a termination of tenancy or eviction, also see Section 966.4(m) of the CRR. The tenant shall be allowed to copy at their expense any such documents including records and regulations which are in the possession of Perry MHA and which are directly relevant to the termination of tenancy or eviction. The notice of lease termination pursuant to CFR 966.4(1)(3) shall inform the tenant of his/her rights to examine Perry MHA documents concerning the termination of tenancy or eviction. If the Perry MHA does not make the documents available for examination upon request, the Perry MHA may not proceed with the eviction nor can Perry MHA rely on any such document at the grievance hearing.
3. 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.
4. The right to a private hearing unless the complainant requests a public hearing.
5. The right to present evidence and arguments in support of the tenant's complaint to oppose evidence relied on by the Perry MHA or project management and to confront and cross-examine all witnesses upon whose testimony or information the Perry MHA relies.
6. A decision based solely and exclusively upon the facts presented at the hearing.
7. The hearing panel may render a decision without proceeding with the hearing if the hearing panel determines that the issue has been previously decided in another proceeding.
8. If the complainant or Perry MHA fail to appear at the scheduled hearing, the hearing panel may make a determination to postpone the hearing for a period not to exceed five (5) business days, or may make a determination that the party has waived their right to a hearing. Both the complainant and Perry MHA will be notified in writing of the determination by the hearing panel; however, even if the complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest Perry MHA'S disposition of the grievance in an appropriate judicial proceeding.
9. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter, the Perry MHA must sustain the burden of justifying their action or failure to act against which the complaint is directed.
10. The hearing shall be conducted informally by the 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 panel shall take written notes or tape-record the hearing. The hearing panel shall require Perry MHA, 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 interest of the disorderly party and granting or denial of the relief sought, as appropriate.

11. The complainant or Perry MHA may arrange for a transcript of the hearing in advance and at the expense of the party making the arrangement. Any interested party may purchase a copy of such transcript.
12. The hearing panel chairperson shall start the hearing by requesting the name and role of all persons present and is the individual that is in charge of the hearing. The panel shall listen to the facts presented by both parties/witnesses and review any and all documents, reports, written statements presented to the panel as evidence. It should be noted that this can so be done without regards to the admissibility under the rules of evidence applicable to judicial proceedings. All panel members are permitted to ask any questions pertaining to the hearing issue.
13. At the time of the hearing, it is the duty of Perry MHA'S representative to provide the hearing panel with all documents, police reports, statements pertaining to the issue at hand and any other evidence they have to substantiate the position of Perry MHA.

Decision of the Hearing Panel:

Said Panel has the option to render a decision at the conclusion of the hearing or may withhold a decision pending further review of the regulations and all evidence presented. In either instance, it must be done in writing on the appropriate form and within twenty-four (24) hours after the hearing. It is the responsibility of the Panel Chairperson to insure the decision form is completed and sent or delegates it done. At a minimum, the decision summary shall include the names in attendance, issue of hearing, actual decision, and reasons for said decision.

A copy of the decision summary shall be sent to the complainant, Perry MHA, and/or legal counsel (if requested). Said summary is to be signed by panel members. If one of the panel members disagrees with the decision, they should still sign the summary but have the option to place a notation they area in opposition. The majority rules in the decision process.

The Perry MHA shall retain a copy of the decision in the tenant's folder:

1. The Perry MHA shall maintain a separate file for all hearing decisions. The copies maintained in this file shall have all names and identifying references deleted. This shall be down by making a copy of the decision, whiting out the names and identifying references, then making a copy of that to place in this specified file. This file will be maintained by Perry MHA and made available for inspection by a prospective complainant, his/her representative, or the hearing panel.
2. The decision of the hearing panel shall be binding on the Perry MHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Perry MHA Board of Directors determines within a

reasonable time, and promptly notifies the complainant of its determination, that;

- a. The grievance does not concern Perry MHA action or failure to act in accordance with or involving the complainant's lease or Perry MHA regulations, which adversely affect the complainant's rights, duties, welfare or status;
- b. The decision of the hearing panel is contrary to applicable Federal, State or local law, HUD regulations or requirement of the annual contributions contract between HUD and Perry MHA.

It should be so noted that a decision by the hearing panel in favor of Perry MHA 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.

Failure to Show:

If a tenant requests a formal hearing and fails to show on the prescribed date, time and place, he/she will have waived their right to any further formal hearings related to the matter that have arisen to the matter.

Expedited Formal Hearing:

An expedited formal hearing is held for any grievance concerning a termination of tenancy or eviction that involves any of the following:

1. Any criminal activity that resulted in felony conviction of a household member
2. Disputes between tenants not involving Perry MHA or to any class grievance.

In the case of a grievance under the expedited procedure, the informal settlement of a grievance is not applicable.

This grievance procedure is incorporated by reference in all tenant dwelling leases and is posted in each Management Office. Copies will be furnished to any resident or other non-resident upon request.

Approved by: MH
Date: March 9, 2017
Board Resolution: 17-018