



GRIEVANCE POLICY

Effective Date: May 1, 2022

Approved By: Faith M. Brodie, Director of Public Housing

PURPOSE

The Town of Chapel Hill Department of Public Housing (the Department) is committed to providing a process whereby tenants of public housing may dispute decisions that adversely affect the tenant's rights, duties, welfare, or status. It is the hope of the Town of Chapel Hill that complaints can be solved without either party feeling the need to go to court. The Grievance Procedure is a mechanism that allows tenants to present their complaints and have them fairly considered. This procedure is adopted in accordance with federal regulations for establishing a grievance procedure.

SCOPE

This Grievance Procedure, which is a part of the Lease Agreement, is an administrative procedure for the processing of grievances, which are defined as disputes which a Tenant may have with respect to the Department's action or failure to act in accordance with the tenant's lease or the Department's regulations that adversely affects the tenant. The procedure is intended to cover matters including but not limited to, termination of lease, reexamination of income, return of security deposits, cost for repairs and other lease requirements or restrictions. This Grievance Procedure is not intended to be used as a public forum for offering general suggestions or criticisms for the overall improvement of the operations or decisions of the Department. These suggestions should continue to be presented to the staff for discussion, consideration, and disposition. This procedure will assure tenants an opportunity for a hearing to present their grievances within a reasonable time.

APPLICABILITY

The Grievance Procedure applies only to individual complaints or disputes. Situations in which the Grievance Procedure does not apply:

- Eviction or termination based on criminal activity that threatens the health and safety of other tenants or Town employees (physical harm or verbal threats) or the peacefulness of the neighborhood, or any violent or drug-related criminal activity committed on or off the premises. This exception is intended to apply only in serious and limited situations.
- Disputes between tenants where the Department's actions or failure to act are not involved.
- Class grievances brought on behalf of a group or groups of tenants.
- Negotiation of policy changes.
- Denial of applicants for admission



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PRESENTATION OF COMPLAINT

The grievance shall be presented personally, either orally or in writing, to the Director of the Department within ten (10) days after the tenant is notified in writing of the Department's action or failure to act. Failure to present the grievance to the Department of Public Housing within 10 days will waive the Tenant's right to this procedure.

INFORMAL SETTLEMENT OF GRIEVANCES

The Director shall informally discuss the complaint with the tenant and shall determine whether it may be settled without a hearing. A summary of the discussion and decision will be prepared by the Director. One copy of the summary shall be given to the tenant within five (5) days and one copy shall be retained in the tenant's files in the Department's office. If the tenant disagrees with the summary decision of the Director, the tenant may request a hearing before the Hearing officer.

The summary shall specify the following:

- name of the participants
- date(s) of the discussion(s)
- the proposed disposition of the complaint and the specific reasons for the decision
- Procedures by which a hearing may be obtained if the tenant is not satisfied

REQUEST FOR HEARING

The Tenant has a right to request a hearing before the Hearing Officer within ten (10) days from the date of receiving the summary. The request for a hearing shall be deemed given to the Department when it is submitted in writing to the Director or orally presented to the Department for transcription and a signature by the tenant. The request is also deemed given on the day after a written request is deposited in the United States mail. The written request should specify:

- the reason for the grievance
- the action or relief sought

If the tenant does not request a hearing within the 10-day time frame, the Department's decision under the informal process is final. However, failure to request a hearing does not prevent the tenant from contesting the Department's decision in court.

SCHEDULING OF HEARING

Upon Tenant's compliance with all requirements of this grievance procedure, the Hearing Officer shall schedule a hearing to be held as soon as possible, but no later than 10 business days. A written notice specifying the time, place, and procedures governing the hearing shall be delivered to the Tenant.



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ESCROW DEPOSIT

Before a hearing is scheduled in any grievance involving the amount of rent which the Department claims is due, the tenant shall pay to the Department the amount due and payable as of the first of the month preceding the month in which the act or failure to act took place. The Tenant shall thereafter pay the monthly amount due to the Department for deposit in an escrow account until the grievance is resolved by decision of the Hearing Officer. The failure to make such payment shall result in a termination of the grievance procedure and waiver of the Tenant's right to a hearing.

If the Tenant presents a grievance not relating to rent, the Tenant must continue to pay all rent and other charges as they become due. Failure to pay any rent or other charges as they become due shall constitute an independent ground for termination of tenancy, regardless of the outcome of the grievance.

If the Department accepts payment as required herein, in escrow or otherwise, the Department does not give up its claim that the Tenant has breached his/her lease. In addition, such payment shall not cancel any Notice of Termination of the Lease.

An escrow account is an account to which monies are deposited but are not available to the Tenant or the Department. After the resolution of the grievance, the monies are paid to the Department or returned to the Tenant in accordance with the decision of the Hearing Officer.

SELECTION OF HEARING OFFICER

The Hearing Officer shall be appointed by the Town Council, or its designee. Decisions made by the Hearing Officer are final. However, the tenant will have an opportunity to take full advantage of other available remedies which include filing a court petition.

PROCEDURES GOVERNING THE HEARING

- The hearing will be informal and technical rules of evidence applicable to judicial proceedings do not apply.
- Prior to the hearing, upon request, the tenant shall be given an opportunity to examine records and regulations relevant to the hearing and allowed to copy documents at tenant's expense.
- The hearing shall be private unless the tenant requests a public hearing.
- The tenant and the Department may be represented at their own expense, by legal counsel or another person chosen as their representative.
- The burden of proof is on the tenant to show entitlement to the relief sought. The tenant shall present evidence and arguments in support of the grievance that contradicts evidence relied on by the Department. The termination shall not be upheld unless the case for termination is established by the greater weight of the evidence.



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PROCEDURES GOVERNING THE HEARING cont'd

- The Department must justify its action or failure to act by providing information on the regulations or policy on which the Department's action is based.
- If the Tenant fails to appear at a scheduled hearing, the Hearing Officer may decide that the Tenant has waived his/her right to a hearing.
- The Tenant, Department, other participants and spectators shall conduct themselves in an orderly fashion. Failure to do so shall result in exclusion from the proceedings or denial of the relief sought.
- The decision of the Hearing Officer shall be based solely and exclusively on the evidence presented at the hearing.

DECISION OF HEARING OFFICER

The Hearing Officer shall, within 10 days after the hearing, prepare written decision, stating the reasons for the decision. The Hearing Officer will be assisted by the legal staff of the Town in preparing the written decision.

A copy of the decision shall be mailed or delivered to the Tenant and Director for of the Department within the 10-day time frame.

The Department shall maintain a copy of the decisions with names and identifying references deleted, and make such copies available for public inspection.

FAILURE TO REQUEST A HEARING

If the Tenant does not request a hearing in accordance with this procedure, the Director's disposition of the grievance shall become final. Failure of the Tenant to request a hearing does not waive his/her right to take the matter to court.