

GREAT FALLS HOUSING AUTHORITY GRIEVANCE PROCEDURE

I. PURPOSE

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

II. GOVERNING LAW AND ELEMENTS OF DUE PROCESS

The Law governing this grievance procedure is U.S. Housing Act of 1937 (42 U.S.C. Sec. 1437d(k) and subpart B of 24 CFR part 966 CFR sec. 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 the GFHA with the following two exceptions:

- A. This grievance procedure is not applicable to disputes between Tenants not involving the GFHA, 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 the GFHA's Board of Commissioners.

- B. Montana State law requires that the Tenant be given the opportunity for a hearing in court which provides the basic elements of due process before the Tenant can be evicted from a dwelling unit. Pursuant to the HUD due process determination, the GFHA has elected that this grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:
 - i. Any criminal activity that threatens the health, safety or right of peaceful enjoyment of the premises of other residents or employees of GFHA; or
 - ii. Any drug related criminal activity on or near such premises; or
 - iii. Any criminal activity that resulted in felony conviction of a household member.

In cases involving these criminal activities, the GFHA may evict the occupants of the dwelling unit through a judicial eviction without following the grievance procedure outlined in this document.

IV. INCORPORATION INTO LEASES and THE PROVISIONS OF A COPY TO TENANT:

This grievance procedure shall be incorporated by reference into all leases between Tenants and GFHA for all public housing dwellings leased by GFHA to Tenants, whether or not so specifically provided in such leases.

The GFHA shall furnish a copy of the grievance procedure to each Tenant and to resident organizations.

V. INFORMAL SETTLEMENT OF GRIEVANCES:

- A. **Initial Presentation.** Any grievance must be personally presented, either orally or in writing, to GFHA's central office, within ten calendar days after the occurrence of the event giving rise to the grievance.
- B. **Informal Settlement.** Tenants are encouraged to present any complaint or grievance to supervisory staff composed of their leasing manager and supervisor, so that the matter may be researched, discussed informally, and possibly settled without a formal grievance hearing.
- C. **Notification.** Within five business days after the informal settlement conference, the tenant will be notified of the determination of the hearing. A copy of the written summary shall also be placed in Complainant's tenant file. If the tenant wishes to request a Formal Hearing they must notify the GFHA within 10 calendar days from the date on the determination letter. This request must be in writing.

VI. Formal Hearing

All grievances must be personally presented either orally or in writing to the formal grievance hearing panel.

The following procedures apply to the request for a formal grievance hearing under this grievance procedure:

- A. **Request for hearing:** If the Complainant is not satisfied with the results of the informal settlement conference, the Complainant must submit a written request for a formal hearing to GFHA no later than ten calendar days from the date on the Informal Settlement letter.

Complainant's written request for a formal hearing must specify:

- i. The reason for the grievance; and

- ii. The action or relief sought by the Complainant.

B. Failure to Request a Hearing. If the Complainant fails to request a formal hearing within ten calendar days from the date on the Informal Settlement letter, GFHA's decision rendered at the informal hearing becomes final. The GFHA is not obligated to offer the Complainant a formal hearing. The failure to request a hearing shall not constitute a waiver by the Complainant of any right to contest in an appropriate judicial proceeding, the GFHA's action in disposing of the complaint.

VII. SELECTION OF HEARING PANEL

All grievance hearings shall be conducted by impartial persons appointed by GFHA Board of Commissioners.

- A. The appointments of person(s) who shall serve as hearing panel members shall be governed by the following procedures:
 - i. GFHA Board of Commissioners appoints a hearing panel consisting of any combination of three or more Board and Staff members with at least one member being a Commissioner.

In the event that a conflict of interest is present and the panel member fails to disqualify himself or herself, the GFHA Board of Commissioners Chairperson will remove the panel member 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, and schedule a new hearing with a new hearing panel.

VIII. SCHEDULE OF HEARINGS

- A. **Hearing Prerequisites:** A complainant does not have a right to a formal grievance hearing unless the Complainant has satisfied the following prerequisites to such a hearing:
 - i. The Complainant has requested a hearing in writing.
 - ii. The Complainant has completed the informal settlement conference procedure or has requested a waiver for good cause, which has been granted.
 - iii. If the matter involves an amount of rent which GFHA claims is due under the Complainant's lease, the Complainant shall pay to the GFHA an amount equal to the amount due. Complainant will receive monies back as determined by the hearing. 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 until the complaint is resolved by decision of the hearing panel. These requirements may be waived in writing by the GFHA in extenuating circumstances. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure. Failure to make payment shall not constitute a waiver of any right the Complainant may have to contest the GFHA's disposition of the grievance in any appropriate judicial proceeding.

B. Time, Place, Notice.

- i. Upon Complainant's compliance with the prerequisites to a hearing set forth above, a hearing shall be scheduled by GFHA staff for a time reasonably convenient to both the Complainant and GFHA, not later than the tenth (10th) day from the date on the Informal Settlement letter.
- ii. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the Complainant and the appropriate GFHA official, who, unless otherwise designated, shall be the Executive Director.

IX. PROCEDURES GOVERNING HEARINGS

A. Hearings

The hearings shall be held before a hearing panel as described above in Section VII. The Complainant shall be afforded a fair hearing, which shall include:

- i. The opportunity to examine before the hearing any GFHA 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 the GFHA does not make the document available for examination upon request by the Complainant, GFHA may not rely on such document at the grievance hearing.

- ii. 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 Complainant's behalf.
- iii. The right to a private hearing unless the Complainant requests a public hearing.
- iv. The right to present evidence and arguments in support of the Complainant's complaint, to argue against evidence relied on by GFHA.

- v. A decision based solely and exclusively upon the facts presented at the hearing.
- vi. In the event of a hearing by a panel, a decision made by a majority of two of the three panelists will decide the grievance.

B. Prior Decision In Same Matter.

The hearing panel 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 GFHA fails to appear at a scheduled hearing, the hearing panel may make a determination to postpone the hearing for a period not to exceed five business days or may make a determination that the party failing to attend has waived the right to a hearing. In such event, the hearing panel shall notify the Complainant of the decision.

D. Required Showing of Entitlement to Relief

At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and afterwards the GFHA must sustain the burden of justifying GFHA's action or failure to act against which the complaint is directed.

E. Informality of Hearing.

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.

F. Orderly Conduct Required.

The hearing panel shall require GFHA, 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. Accommodation to Handicapped Person.

GFHA must provide reasonable accommodation for persons with disabilities to participate in grievance hearings. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

X. DECISION OF THE HEARING PANEL

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

- A. **Written Decision.** The hearing panel shall prepare a written decision, together with the reasons for the decision within ten business days after the completion of the hearing.
 - i. A copy of the decision shall be sent to the Complainant. The GFHA shall retain a copy of the decision in the Complainant's tenant folder.
 - ii. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by GFHA and be made available for inspection by any prospective Complainant, his representative, or the hearing panel.
- B. **Binding Effect.** The written decision of the hearing panel shall be binding upon GFHA and Complainant, unless:
 - i. The decision of the hearing panel is contrary to applicable Federal, State, or local law, HUD regulations, or requirements of the annual contributions contract between HUD and GFHA.
- C. **Continuing Right of Complainant to Judicial Proceedings.** A decision by the hearing panel or Board of Commissioners in favor of GFHA 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 of the Complainant to a trial or judicial review in any judicial proceedings, which may afterwards be brought in the matter.

XI. MODIFICATION

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of the GFHA, present at a regular meeting or a special meeting called for such purposes. Any changes proposed to be made to this grievance procedure must provide for at least 30 days (counting

non-business days and holidays) advance notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by GFHA before final adoption of any amendments or changes to this grievance procedures.

XII. 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:** The Complainant should be aware that a notice to vacate or a notice to quit which is required by Montana State law will run concurrently with a notice of lease termination required by Federal law.