

PUBLIC HOUSING GRIEVANCE PROCEDURE

1.0 RIGHT TO A HEARING

Upon the filing of a written request as provided in these procedures, a resident shall be entitled to a hearing before a Hearing Officer.

2.0 DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions are applicable:

- A. **"Grievance"** shall mean any dispute which a resident may have with respect to the Morristown Housing Authority's action or failure to act in accordance with the individual resident's lease or Authority regulations which adversely affect the individual resident's rights, duties, welfare or status. Grievance does not include any dispute a resident may have with the Authority concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Authority's public housing premises by other residents or employees of the Authority; or any violent or drug-related criminal activity on or near such premises. Nor shall this process apply to disputes between residents not involving the Morristown Housing Authority (MHA) or to class grievances.
- B. **"Complainant"** shall mean any resident whose grievance is presented to the MHA or at the development management office in accordance with sections 3.0 and 4.0 of this procedure.
- C. **"Elements of Due Process"** shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:
 - 1. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
 - 2. Right of the resident to be represented by counsel;
 - 3. Opportunity for the resident to refute the evidence presented by the Authority including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have; and

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4. A decision on the merits.
- D. **"Hearing Officer"** An impartial person selected in accordance with 24CFR sec 966.55 to hear grievances and render decisions with respect thereto.
- E. **"Resident"** shall mean the adult person (or persons) other than a live-in aide:
1. Who resides in the unit and who executed the lease with the Morristown Housing Authority as lessee of the premises, or, if no such person now resides in the premises,
 2. Who resides in the unit and who is the remaining head of household of the resident family residing in the unit.
- F. **"Resident Organization"** includes a resident management corporation.
- G. **"Promptly"** (as used in section 3.0, and 4.0 (D)), shall mean within the time period indicated in a notice from Morristown Housing Authority of a proposed action which would provide the basis for a grievance if the resident has received a notice of a proposed action from the agency.

3.0 PROCEDURES PRIOR TO A HEARING

Any grievance shall be promptly and personally presented, in writing, to the MHA office so that the grievance may be discussed informally and settled without a hearing. This must occur within five (5) business days of the occurrence or non-occurrence of the event. A summary of such discussion shall be prepared within five (5) business days and one copy shall be given to the resident and one retained in the Authority's resident file. The summary shall specify the names of the participants, dates of the meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall specify the procedures by which a hearing under these procedures may be obtained if the resident is not satisfied.

4.0 PROCEDURES TO OBTAIN A HEARING

4.1 REQUEST FOR HEARING

The resident shall submit a written request for a hearing to the Authority or the development office within five (5) business days from the date of the mailing of the summary of the discussion pursuant to section 3.0. The written request shall specify:

- A. The reasons for the grievance; and
- B. The action or relief sought.

4.2 SELECTION OF A HEARING OFFICER

A grievance hearing shall be conducted by an impartial person appointed by the Morristown Housing Authority other than a person who made or approved the action under review or a subordinate of such person.

The MHA shall annually submit a list of prospective hearing officers. This list shall be provided to any existing resident organization(s) for such organization's comments or recommendations. The MHA shall consider any comments or recommendations by a resident organization.

From this list, a hearing officer shall be selected.

4.3 FAILURE TO REQUEST A HEARING

If the resident does not request a hearing within five (5) business days, then the Morristown Housing Authority's disposition of the grievance under section 3.0 shall become final. However, failure to request a hearing does not constitute a waiver by the resident of the right thereafter to contest the Morristown Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding.

4.4 ESCROW DEPOSIT

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Morristown Housing Authority claims is due, the resident shall pay to the MHA 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 resident shall thereafter deposit monthly the same amount of the monthly rent in an escrow account held by the MHA until the complaint is resolved by decision of the Hearing Officer. Amounts

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deposited into the escrow account shall not be considered as acceptance of money for rent during the period in which the grievance is pending. In extenuating circumstances, the MHA may waive these requirements. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure. However, failure to make payment shall not constitute a waiver of any right the resident may have to contest the Morristown Housing Authority's disposition of his grievance in any appropriate judicial proceeding.

If a grievance concerns the denial of a financial hardship exemption from the minimum rent requirement or the effect of welfare benefit reductions in the calculation of family income, the requirement for an escrow deposit is waived.

4.5 SCHEDULING OF HEARINGS

Upon the resident's compliance with this section the Hearing Officer shall promptly schedule a hearing for a time and place reasonably convenient to both the resident and the MHA. A written notification specifying the time and place shall be delivered to the resident.

5.0 PROCEDURES GOVERNING THE HEARING

The resident shall be afforded a fair hearing, which shall include:

- A. The opportunity to examine before the grievance hearing any Authority documents, including records and regulations that are directly relevant to the hearing. The resident shall be provided a copy of any such document at the resident's expense. If the MHA does not make the document available for examination upon request by the resident, the MHA may not rely on such document at the grievance hearing.
- B. The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf;
- C. The right to a private hearing unless the resident requests a public hearing;
- D. The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the Authority or development management, and to confront and cross examine all witnesses upon whose testimony or information the Morristown Housing Authority or development management relies; and

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- E. A decision based solely and exclusively upon the facts presented at the hearing.

The Hearing Officer may render a decision without holding a hearing if the Hearing Officer determines that the issue has been previously decided at another hearing.

If either the resident or Authority fails to appear at a scheduled hearing, the Hearing Officer may determine that the missing party has waived their right to a hearing. Both the Morristown Housing Authority and the resident shall be notified of the Hearing Officer's decision. This decision shall not waive a resident's right to contest the disposition of the grievance in an appropriate judicial proceeding.

The following accommodation will be made for persons with disabilities:

The Morristown Housing Authority shall provide reasonable accommodations for persons with disabilities to participate in the hearing.

6.0 INFORMAL HEARING PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS

The participant family may request that the MORRISTOWN Housing Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The participant family must make this request within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

7.0 DECISION OF THE HEARING OFFICER

The Hearing Officer shall prepare a written decision, together with the reasons therefor, within fourteen (14) calendar days after the hearing. A copy of the decision shall be sent to the resident and the Morristown Housing Authority. The Authority shall retain a copy of the decision in the resident's folder. A copy of such decision with all names and identifying references deleted shall also be maintained on file by the Morristown Housing Authority and made available for inspection by a prospective complainant, his or her representative, or the Hearing Officer.

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The decision of the Hearing Officer shall be binding on the Morristown Housing Authority who shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Morristown Housing Authority's Board of Commissioners determines within reasonable time, and promptly notifies the complainant of its determination, that:

- A. The grievance does not concern MHA action or failure to act in accordance with or involving the resident's lease or Authority regulations, which adversely affect the resident's rights, duties, welfare or status;
- B. The decision of the Hearing Officer is contrary to applicable Federal, State, or local law, Authority regulations, or requirements of the Annual Contributions Contract between the Authority and the U.S. Department of Housing and Urban Development.

A decision by the Hearing Officer in favor of the MHA or which denies the relief requested by the resident in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the resident may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

EXPEDITED GRIEVANCE PROCEDURE

The State of Tennessee has received a due process determination, which allows MHA to develop and employ an expedited grievance procedure, as follows:

When action must be taken by MHA to terminate a tenancy because of certain types of criminal activity on the part of the resident, those in resident's household, or resident's guests, MHA may adopt expedited grievance procedures. This procedure may be used in connection with notices of termination of tenancy based upon two types of criminal activity.

- a) Criminal activity that threatens the health, safety, or peaceful enjoyment of MHA's public housing premises by other residents or employees of MHA, or
- b) In a drug-related criminal activity on or near such premises. In such cases, the following procedures will be followed by MHA in connection with grievances brought by complainants.
- c) MHA shall in its notice of adverse action to the resident specify that it has elected to proceed under the Expedited Grievance Procedure in the event that the resident shall request a grievance hearing.
- d) The complainant shall neither have a right nor an obligation to attend an informal settlement conference under Article VI hereof, and
- e) A resident who desired to request a formal hearing under the Expedited Grievance Procedure shall make such request in writing no later than the end of the 3rd business day following delivery of the notice of adverse action. Failure timely to make such written request for hearing shall constitute a waiver to the right to a hearing.
- f) Any notice period subsequent to the delivery of a request for formal hearing by a complainant specifying or allowing a period of 10 business days or longer hereunder shall be deemed, in the case of the Expedited Grievance Procedure, to specify or allow five business days.

Adopted by Board Resolution No. 2013-09 on June 18, 2013.