

APPENDIX "F"

GRIEVANCE PROCEDURE

Section 1: Purpose

- a. The purpose of this Grievance Procedure is to assure the Yakima Housing Authority (YHA) YHA Family Housing LLC residents are afforded an opportunity for a hearing, if the resident disputes within a reasonable time, any YHA action or failure to act involving the resident's lease with YHA or involving YHA regulations which affect the individual resident's right, duties, welfare or status.
- b. This Grievance Procedure by reference is made a part of all YHA dwelling leases. Copies will be made available to all tenants and Resident Organizations and will be prominently posted in each YHA office.

Section 2: Applicability

- a. This Grievance Procedure shall be applicable to all individual grievances as defined in Section 3 below between the resident and the YHA, Provided, it is not applicable to any grievance concerning an eviction or termination of tenancy based upon any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the YHA **or any drug-related criminal activity on or near such premises**. Washington State law requires, prior to eviction, a resident be given the opportunity for a hearing in court containing the elements of due process.
- b. This Grievance Procedure shall not be applicable to disputes between residents not involving the YHA or to class grievances. The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the YHA Board of Commissioners.
- c. This Grievance Procedure shall not be applicable to any YHA Section 8 Housing Assistance Payments Program. In that program the private owner enter into leases directly with the residents.

Section 3: 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 YHA action or failure to act in accordance with the individual resident's lease or with YHA regulations which adversely affect the individual resident's rights, duties, welfare or status
- b. "Complainant" shall mean any resident whose grievance is presented to the YHA or at a YHA management office in accordance with Section 4 and Section 5 (a) below.
- 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 tenant of the grounds for terminating the tenancy and for eviction;
 2. At the tenant's request an opportunity for the tenant to examine all relevant documents, records and regulations of the PHA and to copy any such documents at tenant expense, prior to the trial for the purpose of preparing a defense;
 3. right of the tenant to be represented by counsel;
 4. Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
 5. A decision on the merits.
- d. "Hearing Officer" shall mean a person selected in accordance with Section 5 below to hear grievances and render a decision with respect thereto.
- e. "Tenant" shall mean the adult person (or persons) (other than live-in aide);
1. Who resides in the units, and who executed the lease with the YHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
 2. Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.
- f. "Resident Organization" includes a resident management corporation.

Section 4: Informal Settlement of Grievance

Any grievance shall be personally presented, either orally or in writing, to the YHA general office or to the office of the development in which the complainant resides so the grievance may be discussed informally and settled without a hearing. Any such grievance shall be presented to the YHA within five (5) days of the act or failure to act upon which the complainant bases his grievance, and the YHA shall set a time for discussion of such grievance within three (3) days of its presentation; provided the YHA, at its sole option, may extend said 3-day period for up to ten (10) days. A summary of such discussion shall be prepared within seven (7) days and one copy shall be given to the resident and one retained in the YHA residents file. The summary shall specify the names of the participants, dates of 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 Section 5 below may be obtained if the complainant is not satisfied.

Section 5: Procedure to Obtain a Hearing.

- a. Request for hearing. The complainant shall submit a written request for a hearing to the YHA office within five (5) days after receipt of the summary of discussion pursuant to Section 4 above. The written request shall specify:
 - 1) The reasons for the Grievance; and
 - 2) The action or relief sought.
- b. Selection of Hearing Officer

- 1) The hearing officer shall be an impartial person (who may be an officer or employee of the YHA) appointed by the YHA, other than a person who made or approved the YHA action under review or a subordinate of such person.
 - 2) The YHA shall consult with the resident organization before appointment of each hearing officer. Any comments or recommendations shall be considered by the YHA before the appointment.
- c. Failure to request a hearing. If the complainant does not request a hearing in accordance with Section 5a above, then the YHA's disposition of the grievance under Section 4 above shall become final, and the YHA may proceed with eviction procedures or other remedies available under the state or local law, provided, failure to request a hearing shall not constitute a waiver by the complainant of the right thereafter to contest the YHA's action in disposing of the complaint in an appropriate judicial proceeding.
 - d. Hearing Prerequisite. All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in Section 4 above as a condition precedent to a hearing under this Section, provided, if the complainant shall, not later than fourteen (14) days after the act or failure to act upon which the complainant bases his grievance, request a hearing in accordance with Section 5a and show good cause why he failed to proceed in accordance with Section 4, to the hearing officer, the provisions of Section 4 may be waived by the hearing officer or hearing panel.
 - e. Escrow deposit. Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the YHA claims is due, the complainant shall pay to the YHA 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 complainant shall thereafter deposit the same amount of the monthly rent in an escrow account at the YHA on a monthly basis until the complaint is resolved by decision of the hearing officer or hearing panel. These requirements may be waived by the YHA in extenuating circumstances. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure, provided, failure to make payment shall not constitute a waiver of any right the complainant may have to contest the YHA's disposition of the grievance in any appropriate judicial proceeding.
 - f. Scheduling of hearings. Upon Complainant's compliance with Sections 5a, d and e above, a hearing shall be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the YHA, but in no event more than ten (10) days subsequent to the appointment of a hearing officer unless mutually agreed by the YHA and the complainant. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered by the **hearing officer** to the complainant and the YHA Executive Director or his representative at the YHA general offices at least five (5) days prior to the hearing date.

Section 6: Procedures Governing the Hearing

- a. The hearing shall be held before a hearing officer.
- b. The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:
 1. The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents, records and regulations of the YJA that are

relevant to the hearing. Any document not so made available after request therefore by the complainant may not be relied on by the YHA at the Hearing;

2. The right to be represented by counsel or other person chosen as his or her representative and to have such person make statements on the tenant's behalf.
 3. The Right to a private hearing unless the complainant requests a public hearing;
 4. The right to present evidence and arguments in support of his or her complaint, to controvert evidence relied on by the YHA, and to confront and cross-examine all witnesses on whose testimony or information the YHA relies; and
 5. Decision based solely and exclusively upon the facts presented at the hearing.
- c. The hearing officer may render a decision without proceeding with the hearing if the hearing officer determines the issue has been previously decided in another proceeding.
 - d. If the complainant or the YHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing, not to exceed five (5) business days or may make a determination the party has waived his right to a hearing. Both the complainant and the YHA shall be notified of the determination by the **hearing officer**, provided, that a determination that the complainant has waived his right to a hearing shall not constitute a waiver of any right the complainant may have to contest the YHA's disposition of the grievance in an appropriate judicial proceeding.
 - e. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the YHA must sustain the burden of justifying the YHA Action or failure to act against which the complaint is directed.
 - f. The hearing shall be conducted informally by the **hearing officer** and oral or documented evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The **hearing officer** shall require the YHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the **hearing officer** 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. The complainant or the YHA 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.
 - h. YHA will provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.

Section 7: Decision of the Hearing Officer

- a. The **hearing officer** shall prepare a written decision, together with the reasons therefor, within seven (7) days after the hearing. A copy of the decision shall be promptly delivered to the complainant and the YHA. The YHA 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 YHA and made available for inspection by a prospective complainant, his representative, or the **hearing officer**.

- b. The decision of the hearing officer shall be binding on the YHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the YHA Board of Commissioners determines within a reasonable time (normally 14 days and promptly notifies the complainant of its determination, that:
 - 1) The grievance does not concern YHA action or failure to act in accordance with or involving the complainant's lease or YHA regulations, which adversely affect the complainant's rights, duties, welfare or status:
 - 2) The decision of the hearing officer is contrary to applicable Federal, State or local law, HUD regulations or requirements of the annual contributions contract between HUD and the YHA.
- c. A decision by the hearing officer or Board of Commissioners in favor of the YHA 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.

Section 8: Housing Authority Obligations

The Housing Authority agrees to notify the tenant of the specific grounds for any proposed adverse action. (Such adverse action includes, but is not limited to, a proposed lease termination, transfer of the tenant to another unit, or imposition of charges for maintenance and repair, or for excess consumption of utilities.)

When the Housing Authority is required to afford the tenant the opportunity for a hearing under this grievance procedure for a grievance concerning a proposed adverse action:

- A) The notice of proposed adverse action shall inform the tenant of the right to request such hearing. In the case of lease termination, a notice of lease termination shall constitute adequate notice of proposed adverse action.
- B) In the case of proposed adverse action other than a proposed lease termination, the Housing Authority shall not take the proposed action until the time for the tenant to request a grievance hearing has expired and (if a hearing was timely requested by the tenant) the grievance process has been completed.

Section 9: Amendment of Grievance Procedure

The Grievance Procedure may be amended by giving Resident and Resident Organizations not less than thirty (30) days notice of same providing opportunity to present written comments. Said notice may be delivered directly or mailed to each Residents' household and Resident Organization, or posted on each official bulletin board.

