



Title: Grievance Policy	Effective Date: 08/26/2005	Review Date:
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Board Signature: <i>(electronic signature – LEE BROWN, Jr., Chairman)</i>		Executive Director Signature: <i>(electronic signature – Myra Price)</i>
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PURPOSE:

The purpose of this policy is to establish the procedure by which the Ho-Chunk Housing & Community Development Agency, herein after referred as HHCDA, shall insure that all HHCDA program participants are given the opportunity to dispute HHCDA action or failure to act, and to receive within a reasonable period of time a response to the dispute.

The grievance procedure provides an administrative process to resolve complaints before the parties resort to judicial remedies. By entering into the grievance procedure, the parties to the conflict stipulate that the Ho-Chunk Tribal Court is the exclusive court of jurisdiction where a dispute requires judicial resolution. Neither HHCDA nor the Ho-Chunk Nation waive any right to sovereign immunity by entering into the administrative grievance procedure.

SECTION 1: APPLICABILITY

The HHCDA Grievance Policy shall be applicable to disputes between a HHCDA program participant and the HHCDA. The procedure is applicable only to disputes regarding the interpretation of implementation of established policy. It shall not be used as a method of initiating changes in HHCDA policy.

SECTION 2: DEFINITION

For the purpose of this policy the following definitions apply:

- a. *Ho-Chunk Housing & Community Development Agency:* A non-profit organization governed by the Ho-Chunk Housing & Community Development Agency Board of Commissioners, providing affordable housing to qualified individuals consistent with HUD Regulations and the Native American Housing Assistance and Self-Determination Act of 1996, Public Law 104.
- b. *HHCDA Program Participant:* Any lessee of a HHCDA program.
- c. *Complainant:* A HHCDA program participant with a direct interest in a decision arising from the HHCDA or any member of its staff.
- d. *Grievance:* Any dispute which a HHCDA program participant may have with respect to HHCDA action, or failure to act, in accordance with the HHCDA program participant’s lease/occupancy agreement, or in accordance with HHCDA policies.
- e. *Conciliation Discussion:* An informal meeting or telephone conversation between the HHCDA Executive Director, or designee, and a complainant in an attempt to resolve a complaint prior to scheduling a Grievance Hearing.

- f. *Grievance Hearing*: a formal presentation of facts presented to the HHCDA Board of Commissioners at the request of a complainant and incorporating essential elements of due process. (*See Goldberg v. Kelly, 397 U.S. 25 (1970)*).
- g. *Due Process*: A hearing procedure that shall include a right to present oral evidence; a right to confront and cross-examine witnesses; a right to counsel; a statement by the arbiter of reasons and of the evidence relied on; and a right to an impartial decision-maker.

SECTION 3: DOCUMENTATION

The HHCDA staff shall keep a record of all HHCDA program participant requests for assistance or other communications requesting a review of HHCDA action or failure to act. These requests shall be in writing and presented by the HHCDA program participant to the HHCDA staff; the HHCDA staff shall take no more than ten (10) working days to respond to the request, in writing.

All action taken to respond to a HHCDA program participant communication shall be recorded with an indication of results achieved and further action required or anticipated, so as to avoid the necessity of other dispute resolution mechanisms.

Any Grievance Hearing before the HHCDA Board of Commissioners will be documented in the minutes of that meeting, plus any explanatory material, to be entered in the record kept regarding the appeal.

SECTION 4: CONCILIATION DISCUSSION

Conciliation Discussion are not available to HHCDA program participants served with a Notice to Terminate Tenancy for violent crimes and drug activities under the Admission Policy set forth in Section 4.3.2 and 4.4.4. However, HHCDA program participants are entitled to a grievance hearing.

HHCDA program participants may request a conciliation discussion with the Executive Director upon receiving a Notice to Terminate Tenancy or upon any action or failure to act by the HHCDA which adversely affects the HHCDA program participant. HHCDA program participants are required to request for a conciliation discussion prior to requesting a grievance hearing.

All requests for a conciliation discussion shall be given in writing to the Executive Director. The request shall include the action or inaction complained of, the date the action or inaction occurred, and the parties involved. All requests for a conciliation discussion must be signed by HHCDA program participant.

The request for a conciliation discussion shall be made by HHCDA program participant within five (5) working days of occurrences of the action or inaction adversely affecting the HHCDA program participant.

Upon receipt of the request, the Executive Director shall notify the HHCDA program participant of the conciliation discussion no later than five (5) working days of receipt of the request.

The conciliation discussion will occur no later than ten (10) working days from the date of the notification letter of the conciliation discussion from the Executive Director.

The HHCDA program participant shall be informed of their right to a grievance hearing at the conciliation discussion. The conciliation discussion shall be documented and preserved for the HHCDA program participant's file with a written summary of the discussion, including the following:

- a. The names of the participants;
- b. The date and time of the conciliation discussion
- c. The HHCDA program participant's specific request for relief, the Executive Director decision, the reasons for the decision and any stipulation or agreements agreed to;

SECTION 5: GRIEVANCE HEARING

A Grievance Hearing shall be scheduled, by the Board of Commissioners, only after a HHCDA program participant has been made in writing for the following:

- a. Where a Notice to Terminate Tenancy was served for violent crimes or drug activities under the Admission Policy and Dwelling Lease within five (5) working days of receipt of the Notice to Terminate Tenancy;
- b. A conciliation discussion was held within ten (10) working days of receipt of the written summary.

Failure to request a grievance hearing within the time allowed shall constitute a waiver of the right to any further grievance hearings. The request shall include the action or inaction complained of, the date the action or inaction occurred, the parties involved, the decision of the Executive Director at the conciliation discussion, and the relief being requested. All requests for a grievance hearing must be signed by the HHCDA program participant.

The Grievance Hearing shall be held in closed session, if requested by any party, excluding visitors and guests except for legal counsel of the parties, the complainant, representative of the HHCDA, and members of the Board of Commissioners. Any member of the Board of Commissioners who cannot serve as an impartial decision-maker in a matter due to interests or relationships concerning the dispute shall be excused from the Grievance Hearing.

The Board of Commissioners shall be fair, impartial and disinterested in the grievance, and shall not have been involved in the dispute prior to the request for a grievance hearing.

All grievance hearings shall be held at a location designated by the Board of Commissioners.

The Board of Commissioners shall wait no more than fifteen (15) minutes after the appointed hour. If the HHCDA program participant requesting the grievance hearing does not appear or is not excused from appearing, for reasons deemed valid by the Board of Commissioners at a scheduled grievance hearing, the matter in dispute will not be considered further. The HHCDA program participant will be required to adhere to the action specified in the original HHCDA response to their request.

The intent of the Grievance Hearing is to provide the basic safeguards of the due process rights of any complainant, which shall include:

- a. The opportunity to examine copy or duplicate any relevant documents, records or regulations, before the hearing during regular business hours of the HHCDA. Copies of said documents shall be made at the HHCDA program participant's expense at \$0.25 cents per copy.
- b. The right to be represented by anyone of their choice at their expense. The HHCDA program participants have rights to represent themselves.
- c. The right to present evidence and testimony.
- d. The right to have others make statements on their behalf.
- e. The right to confront and cross examine witness and to present any affirmative legal or equitable defense.
- f. The right to a written decision.

The Board of Commissioners shall order a decision in writing within ten (10) days of the Grievance Hearing. The decision shall summarize the evidence presented, explaining the reasons for its decision, and the conclusion of the Board of Commissioners. The decision shall be the final administrative decision and shall be binding on all parties. A copy of the written decision shall be given to the HHCDA program participant, a copy filed in the HHCDA program participant's file, and a copy sent to the Executive Director.

SECTION 6: COMPLAINANT RENT OR MONTHLY PAYMENTS

The complainant shall not withhold payment pending a Conciliation Discussion, Grievance Hearing, or other procedural measures.

SECTION 7: APPEALS

The Ho-Chunk Tribal Court shall be the court of jurisdiction for any dispute between the HHCDA and complainant's appeal of this administrative procedures herein. The complainant shall file an appeal of any decision in the Ho-Chunk Tribal Court. No one shall construe any language in the Grievance Policy as a waiver of jurisdiction and sovereign immunity by the HHCDA and the Ho-Chunk Nation concerning any matter.