



PALM BEACH COUNTY HOUSING AUTHORITY

GRIEVANCE POLICY AND PROCEDURE

I. PURPOSE

These procedures shall provide a means for review of grievances through administrative procedure, instead of or prior to taking action through the appropriate judicial proceeding.

II. DEFINITIONS

- A. “Grievance” shall mean any dispute which a tenant may have with respect to:
- (1) Palm Beach County Housing Authority’s (PBCCHA) failure to act in accordance with the individual tenant’s lease, or,
 - (2) PBCCHA regulations which adversely affect the individual tenant’s rights, duties, welfare or status. “Grievance” includes any dispute about the amount of rent that is charged. However, “grievance” does not include a tenant’s refusal to pay rent when due.
- B. “Complainant” shall mean any tenant whose grievance is presented to PBCCHA’s Main Office or at the tenant’s property management office, in accordance with these policies and procedures.
- C. “Informal Settlement Meeting” shall mean informal settlement of grievance during a meeting between the tenant and management. As a prerequisite to obtaining a hearing, all grievances shall be presented in writing to the tenant’s PBCCHA Property/Asset Manager so that the grievance may be discussed informally at a settlement meeting and settled without a grievance hearing.
- D. “Due Process Determination” shall mean a determination by HUD that the law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.
- E. “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) Right of the tenant to be represented by counsel;
 - (3) Opportunity for the tenant to refute the evidence presented by PBCCHA, including the right to confront and cross examine witnesses, and to present any affirmative legal or equitable defense which the tenant may have; and
 - (4) A decision on the merits.
- F. "Hearing Officer/Panel" shall mean a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto.
- G. "Resident Organization" includes a resident management corporation.
- H. "Tenant" shall mean the adult person(s) other than a live-in aide who, (1) resides in the unit, and who executed the lease with PBCCHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

III. APPLICABILITY

- A. This Grievance Policy and Procedure ("Grievance Policy") shall govern informal settlement meetings and grievance hearings resulting from complaints filed by the individual tenant in PBCCHA dwellings, except as otherwise indicated federal regulations or state statutes.
- B. The Grievance Policy shall not be used to review tenant complaints not involving PBCCHA or for class grievances.



PBCHA procedures shall not be applied for purposes of initiating or negotiating PBCHA policy or procedural changes; nor shall they be applied when a tenant refuses to pay rent when due (provided the calculation of rent is not in dispute). In such cases, other dispute mechanisms must be used.

- C. PBCHA excludes from this Grievance Policy any grievance concerning the termination of tenancy or eviction that involves, (1) any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents, or employees of PBCHA, (2) any violent or drug-related criminal activity on or off PBCHA premises, and (3) any criminal activity that resulted in a felony conviction of a household member.

IV. GRIEVANCE HEARING PRE-REQUISITES

(i) Informal Settlement Meeting: Any tenant who believes himself/herself to have been adversely affected by an act or failure to act by PBCHA must present the grievance in writing to PBCHA's Main Office or the tenant's property management office. The grievance must be presented within ten (10) business days of PBCHA's action or failure to act, giving rise to the grievance. At the time the complaint is filed with PBCHA, an informal settlement meeting shall be scheduled at the convenience of the tenant and management (but no more than ten (10) business days after presentation of the grievance to management) to informally discuss the nature of the grievance for the purpose of settlement without a hearing.



All grievances against PBCHA are subject to informal settlement meeting procedures as defined in this section as a pre-condition to a grievance hearing. If a resolution cannot be obtained, a grievance hearing will be convened at the request of the complainant.

(ii) Failure to Appear at Informal Settlement Meeting: If a tenant fails to attend the scheduled meeting within 30 minutes after the scheduled meeting time without prior notice, PBCHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

“Good cause” is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

(iii) Summary of Discussion: After the informal settlement meeting is held, a copy of a written summary of the meeting’s discussion shall be prepared by PBCHA and provided to the complainant within ten (10) business days. The summary shall consist of the following information:

1. Names of participants.
2. Dates of Meeting.
3. The nature of the grievance and the relief or action sought by PBCHA and/or the complainant.
4. The nature of the proposed disposition of the complaint and the specific reasons thereof.
5. The procedures by which a hearing may be obtained and the time allowed to request a hearing, if complainant is not satisfied.

(iv) Service of Summary of Discussion: PBCHA’s Summary of Discussion shall be served upon the complainant as follows -

- (a) by personal service, or by leaving a copy at the dwelling unit with an adult member of the household residing in the dwelling unit, or
- (b) in the absence of an adult household member, by posting it in a conspicuous place on the unit AND by mailing it pre-paid first class properly



addressed to the tenant. The Notice shall become effective upon the date of mailing.

(v) Request for a Grievance Hearing: If the complainant is not satisfied with the proposed disposition of his or her complaint, he or she shall submit a written request for a hearing to PBCHA's Main Office or the tenant's property management office.

A complainant's request for a hearing shall be in writing, and shall be filed within five (5) business days from the date the Summary of Discussion is served or mailed.

If the complainant does not request a hearing within the specified time, then PBCHA's disposition of the complaint pursuant to these policies and procedures shall become final. This shall not, however, constitute a waiver of the complainant's right to contest PBCHA's actions in an appropriate judicial proceeding.

(vi) Escrow Accounts: Before a hearing is scheduled in any grievance involving the amount of rent or any part thereof which PBCHA claims is due under the Lease, the complainant shall pay to PBCHA at the time the complainant files his or her request for a hearing, an amount equal to the entire 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 pay the same amount of the monthly rent to PBCHA each month, and PBCHA shall deposit the monies in the PBCHA escrow account each month until the complaint is resolved by decision of the hearing officer/panel. Deposit into the escrow account shall not be considered a waiver of eviction. Failure to make such payment shall result in a termination of the grievance procedure. However, failure to make payment shall not constitute a waiver of any right the complainant may have to contest PBCHA's disposition of the grievance in any judicial setting.

V. SCHEDULING A GRIEVANCE HEARING

(i) Selection of Hearing Officers: A grievance hearing shall be conducted by an impartial person or persons appointed by PBCHA, other than the person who made or approved the PBCHA action under review, or a subordinate of such person. All PBCHA grievance hearings will be conducted by a single hearing officer and/or panel. PBCHA's designated hearing officers are the Executive Director or his/her impartial representative(s).

PBCHA will consult with resident organizations before the appointment of each hearing officer or panel member. Any comments or recommendations submitted by the tenant organizations will be considered by PBCHA before the appointment.



(ii) Notice Requirements: If the complainant has complied with all the requirements for a requesting a hearing as described above, the hearing officer shall schedule a hearing time, date and place, reasonably convenient to both the complainant and the PBCCHA, and shall so notify the complainant and PBCCHA in writing within ten (10) business days of receiving a written request for a hearing. If the hearing will be heard by a panel, the panel shall select a chairman who will act as a presiding “officer” and who will be responsible for scheduling the hearing and contacting all the parties and fellow panel members.

(iii) Re-scheduling a Grievance Hearing: The complainant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. “Good cause” is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, PBCCHA may request documentation of the good cause prior to rescheduling the hearing.

VI. PROCEDURES GOVERNING THE HEARING

(i) Rights of Complainant: The hearing shall be held before a hearing officer or panel. The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:

(a) the opportunity to examine before the hearing and, at the expense of complainant, to copy all documents, records and regulations of PBCCHA that are directly relevant to the hearing. If PBCCHA does not make the document(s) available upon request by the complainant, PBCCHA may not rely on such document(s) at the grievance hearing. The complainant must request discovery of PBCCHA documents no later than 12:00 p.m. on the business day prior to the hearing;

(b) 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 complainant’s behalf;

(c) the right to present witnesses;

(d) the right to a private hearing, unless the complainant requests a public hearing;

(e) the right to present evidence and arguments in support of his or her complaint, to controvert evidence relied on by PBCCHA, and to confront and cross-examine all witnesses on whose testimony or information PBCCHA relies; and

(f) a decision based solely and exclusively upon the facts presented at the hearing.



(ii) Decision without Hearing: The hearing officer or panel may render a decision without proceeding with the hearing, if the hearing officer or panel determines that the issue has been previously decided in another proceeding.

(iii) Failure to Appear: If the complainant or PBCHA fails to appear at a scheduled hearing, the hearing officer or panel may make a determination to postpone the hearing for no more than five (5) business days, or may make a determination that the party has waived their right to a hearing. Both the complainant and the PBCHA shall be notified of the determination by the hearing officer or panel, provided that a determination that the complainant has waived his or her right to a hearing shall not constitute a waiver of any right the complainant may have to contest the PBCHA's disposition of the grievance in an appropriate judicial proceeding. If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear. If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact PBCHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities. "Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

(iv) General Procedures: At the hearing, the complainant must make a showing of an entitlement to the relief sought and thereafter PBCHA must sustain the burden of justifying its actions, or failure to act against which the complaint is directed.

The hearing shall be conducted informally by the hearing officer/panel. PBCHA and the complainant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complainant and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer/panel shall require the PBCHA, 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/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to their interests of the disorderly party, and granting or denial of the relief sought as appropriate.

The complainant or the PBCHA may arrange, in advance, and at the expense of the party making the arrangement, for a transcript of the hearing. If the complainant would like PBCHA to make an audio recording of the proceedings, the request must be made to PBCHA by 12:00 p.m. on the business day prior to the hearing.



(v) Accommodation of Persons with Disabilities: PBCHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation 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 Grievance Policy and Procedure must be in an accessible format.

VII. DECISION OF THE HEARING OFFICER OR PANEL

A. The hearing officer/panel must issue a written decision to the complainant and PBCHA no later than ten (10) business days after the hearing. PBCHA shall retain a copy of the decision in the complainant’s file. A copy of such decision, with all names and identifying references deleted, must also be maintained on file by PBCHA and available for inspection by the complainant, his/her representative, or the hearing officer/panel.

B. The decision of the hearing officer or panel shall be binding on the PBCHA unless it considers the decision to be invalid. If PBCHA considers the decision to be invalid, it will present the matter to PBCHA’s Board of Commissioners within ten (10) business days of the date of the decision . The Board will have thirty (30) days to consider the decision. The Board shall reverse the decision and notify the complainant of the reversal within ten (10) days of its decision, if it determines, that:

- (1) the grievance does not concern PBCHA action or failure to act in accordance with or involving the complainant’s lease or PBCHA policies which adversely affect the complainant’s rights, duties, welfare or status; or
- (2) The decision of the hearing officer/panel is contrary to applicable federal, state or local law, HUD regulations or requirements of the annual contributions contract between HUD and PBCHA.

A decision by the hearing officer/panel, or Board of Commissioners in favor of PBCHA or which denies the relief requested by the complainant in whole or in part, does not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court.

Tenant

Date



Tenant

Date