
LICKING METROPOLITAN HOUSING AUTHORITY

Grievance Procedure

Policy: The following sets forth the requirements, standards and criteria for the Grievance Procedure established and implemented by the Licking Metropolitan Housing Authority, aka LMHA.

DEFINITIONS

In this Grievance Procedure, the following terms have the meanings specified in this section:

- A. Complaint: Any tenant (as defined below) who's Grievance is presented to the LMHA office in accordance with the requirements presented in this procedure.
- B. Elements of Due Process: 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 (Appendix KK)
 - 2. Right of the Tenant to be represented by counsel
 - 3. Opportunity for the Tenant to refute the evidence presented by the LMHA, 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.
- C. Grievance: Any dispute which a Tenant may have with respect to the LMHA action or failure to act in accordance with the individual Tenant's rights, duties, welfare or status.
- D. Hearing Officer: A person selected in accordance with this Grievance Procedure and 24 CFR 966.55 to hear Grievances and render a decision with respect thereto.
- E. Tenant: The adult person (or persons) (other than a live-in-aide): (1) who resides in the dwelling unit, and who executed the lease with the LMHA as lessee of the dwelling unit, or, if no such person now resides in the unit, then the recognized head of household: and (2) who resides in the dwelling unit, and who is the remaining head of the household of the Tenant family residing in the dwelling unit.

GRIEVANCE PROCEDURE APPLICABILITY

This Grievance Procedure shall apply to all Tenant Grievances with the following two exceptions:

LMHA Grievance Procedure, continued.

- A. Because HUD has issued a due process determination that the law of the State of Ohio requires that a Tenant be given the opportunity for a hearing in a court which provides the basic elements of due process before eviction from the dwelling unit, this Grievance Procedure shall not be applicable to any termination of tenancy or eviction that involves:
 - 1. Any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the LMHA: or,
 - 2. Any drug-related criminal activity on or off such premises.
 - 3. Illegal use of a controlled substance, abuse of alcohol, or use of a controlled substance in such a way that may interfere with the health, safety or right of peaceful enjoyment by other residents or employees of the LMHA.
- B. The Grievance Procedure shall not be applicable to disputes between Tenants not involving the LMHA or to class Grievances. This Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between and individual or group of Tenants and the LMHA Board of Directors.

INFORMAL SETTLEMENT OF A GRIEVANCE

- A. Any Grievance shall first be personally presented, either orally or in writing, to LMHA office within ten days after the incident giving rise to the Grievance. An example of a form of written complaint for informal hearing (Appendix LL). Grievance received by the LMHA will be referred to the person responsible for the management of the project.
- B. As soon as the Grievance is received, it will be reviewed by the management office of the LMHA to be certain that neither of the exclusions in paragraphs II. A or II. B above applies to the Grievance. Should one of the exclusions apply, the Complaint will be notified in writing that the matter raised is not subject to LMHA's Grievance procedure, with the reason therefore.
- C. If neither of the exclusions cited above apply, the Complainant will be contacted to arrange a mutually convenient time, within ten working days, to meet so the Grievance may be discussed informally and the person in charge of the management office will attempt to settle the Grievance to the satisfaction of both parties.
- D. Within five working days following the informal discussion, the LMHA shall prepare and mail to the complainant a summary of the informal discussion which specifies the names of the participants, the date(s) of the meeting(s), the nature of the proposed disposition of the complainant and the specific reason therefore, and shall specify the procedures by which a formal hearing under this procedure may obtained if the Complainant is not satisfied. A copy of this summary shall also be placed in the Complainant's file.

FORMAL GRIEVANCE HEARING PROCEDURE

IV. A. Request for a hearing:

1. If the Complainant is dissatisfied with the settlement arrived at in the formal hearing, the Complainant must submit a written request for a hearing to the LMHA office no later than five working days after the summary of the informal hearing is sent. Requests received by the LMHA will be referred to the person responsible for the management of the project. The written request shall specify the reasons for the Grievance and the action or type of relief sought from the LMHA. (Appendix MM) is a sample request for a formal hearing

B. Failure to Request a Hearing:

2. If the Complainant fails to request a hearing within five working days after receiving the summary of the informal hearing, the LMHA's decision rendered at the informal hearing becomes final and the LMHA is not obligated to offer the Complainant a formal hearing unless the Complainant can show good cause why s/he failed to proceed in accordance with this procedure. Failure to request a Grievance Hearing does not affect the Complainant's right to contest the LMHA's decision in a court hearing.

C. Before the hearing is held:

1. Escrow Account: Before a hearing is scheduled in any Grievance involving the amount of rent which the LMHA claims is due under this lease, the Complainant shall pay to the LMHA an amount equal to 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 monthly until the complaint is resolved by decision of the hearing officer. Any interest earned on the escrow account shall be retained by the LMHA on rental payment that would normally be received on time, subject to the decision of the Hearing Officer. The failure to make such escrow payments shall result in a termination of the Grievance Procedure, provided, that failure to make payments shall not constitute a waiver of any right the complainant may have to contest the LMHA's disposition of his Grievance in any appropriate judicial proceeding.
2. Examination of Records: The complainant may examine all the LMHA documents including records and regulations that are directly relevant to the Grievance before the formal hearing is held. The LMHA shall provide copies to the tenant upon his/her request assuming reasonable advance notice is provided to LMHA. If the LMHA does not make any document available for examination upon request by the Complainant, the LMHA may not rely on such document at the Grievance Hearing.

D. Selecting the Hearing Officer

The Grievance Hearing shall be conducted by any impartial person appointed by LMHA other than the person who made or approved the LMHA action under review or a subordinate of such person.

LMHA Grievance Procedure, continued.

The hearing officer shall be appointed as described below:

1. The LMHA shall nominate a person, as described in the first paragraph of this subsection above, to sit as a Hearing Officer. The Executive Director or his/her designate will appoint the Hearing Officer.
2. Nominees will be informed that they will be expected to disqualify themselves from hearing grievances that involve personal friends, other residents of projects in which they reside, or Grievances in which they have some personal interest.

E. Scheduling the Hearing:

1. When a Complainant submits a timely request for a formal Grievance Hearing, the LMHA will immediately contact a Hearing Officer to schedule the hearing within the following 10 working days at a date and time convenient for the LMHA, Complainant and the Hearing Officer
2. A written notification specifying the time, place, and the procedures governing the Hearing shall be delivered by the LMHA to the Complainant and the Hearing Officer. The notice may be personally delivered to the Complainant or sent by mail.

F. Procedures Governing the Hearing:

The following procedures shall govern the formal Grievance Hearing:

1. The hearing shall be held before a Hearing Officer as described above in paragraph three (3). The complainant shall be afforded a fair hearing, which shall include:
 - A. 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
 - B. The right to a private hearing unless the Complainant requests a public hearing.
 - C. The right to present evidence and arguments in support of the Complainant's complaint, to controvert evidence relied on by the LMHA or project management, and to confront and cross examine all witnesses upon whose testimony or information the LMHA or project management relies; and,
 - D. A decision based solely and exclusively upon the facts presented at the hearing.
2. The Hearing Officer may render a decision without proceeding with the Hearing if they determine that the issue has been previously decided in another proceeding.

LMHA Grievance Procedure, continued.

3. At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and, thereafter, the LMHA must sustain the burden of justifying the LMHA action or failure to act against which the complaint is directed.
4. The Hearing Officer shall conduct the hearing informally. Oral or documentary 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 admit copies of all public records, including police reports, court records, and similar matters deemed public record under Section 149.43 of the Ohio revised Code, without requiring the testimony of the custodian of those records unless the Hearing Officer or Hearing Panel determines that admission of the public record without the presence of the custodian would be unfair to either party.
5. The Hearing officer shall require the LMHA, 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 or Hearing Panel to maintain 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.
6. The LMHA will provide a reasonable accommodation of persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the Complainant is visually impaired, any notice to the complainant, which is required under this procedure, must be in an accessible format.
7. If a Hearing Officer fails to disqualify himself as required in Section IV.D. the LMHA will remove the Hearing Officer; invalidate the results of the Hearing and schedule a new Hearing.

G. Failure to Appear at the Hearing:

1. If the Complainant or the LMHA fails to appear at the scheduled formal Grievance Hearing, the Hearing Officer may make a determination to postpone the Hearing for not to exceed five business days, or may make a determination that the party has waived his/her right to a hearing and proceed to provide a decision based upon the available information and testimony presented by those parties in attendance.
2. Both the Complainant and the LMHA shall be notified of the determination with specific findings by the Hearing Officer that the Complainant has waived his/her right to a hearing; provided, that a determination that the Complainant has waived his/her right to a hearing shall not constitute a waiver of any right the Complainant may have to contest the LMHA disposition of the Grievance in a court.

H. Decision of the Hearing Officer or Hearing Panel

1. **Written Report:** The Hearing Officer shall prepare a written decision, together with the reasons for the decision within 10 working days after the Hearing. A copy of the decision shall be sent to the Complainant and the LMHA.

LMHA Grievance Procedure, continued.

2. Access and Confidentiality: The LMHA shall retain a copy of the decision in the Complainant's file in the LMHA's office. A copy of the decision with all names and identifying references deleted, shall also be maintained on file by the LMHA and made available for review by only authorized LMHA employee's, the complainant, his/her representative, or any Hearing Officer.
3. Binding Decision: The decision of the Hearing Officer shall be binding on the LMHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision.
4. Judicial action: A decision by the Hearing Officer in favor of the LMHA or which denies the relief requested by the Complainant in whole or in part, shall not constitute a waiver of, nor affect in any way, the rights of the Complainant to a trial or judicial review in any court proceedings which may later be brought in the matter.
5. Lease Termination: If the Grievance involves a lease termination, the LMHA will not issue the Complainant a notice to vacate his apartment until after the Complainant has received the decision of the Hearing Officer. If the decision is in favor of the LMHA, or if the LMHA Board of Directors decides to proceed against the Complainant in spite of the decision, the Complainant will be served with a notice to vacate. If the lease is being terminated due to the tenant's failure to timely pay his/her rent, s/he shall be given a notice that provides for a fourteen-day period in which to vacate his/her apartment. If the lease is being terminated for any other such reason, s/he shall be given a notice that provides for a thirty-day period in which to vacate his/her apartment. The Complainant must then vacate the unit within the stated time or the LMHA will proceed through a court of law to evict the Complainant.

I. Miscellaneous

1. This Grievance Procedure is incorporated by reference into all leases between the LMHA and tenants.
2. The LMHA shall, before amending or changing the Grievance Procedure, provide at least 30 days notice to Tenants of proposed changes in this Grievance Procedure. Within the 30-day period, Tenants may submit written comments to the LMHA. Such written comments shall be considered by the LMHA before adoption of any changes to this Grievance Procedure.
3. The LMHA shall, upon written request, furnish to tenants, a copy of this Grievance Procedure.
4. Any provision of this Grievance Procedure, other than the provisions establishing the date upon which a grievance must be filed, or a formal hearing must be requested, shall not be considered mandatory, and any failure on the part of the LMHA, a Complainant, or Hearing Officer to strictly comply with such provisions shall not, in and of itself, affect the validity of the proceedings or the results thereof. The Complainant waives all rights to a hearing for failure to file a grievance or request a hearing within the time set forth herein.