

HOUSING AUTHORITY OF THE CITY OF FRANKLIN

GRIEVANCE PROCEDURE

RESOLUTION NO. 10 OF 2013

06/26/2013

I. PURPOSE

- A. The purpose of this Grievance Procedure Policy is to set forth the requirements, standards and criteria for grievances in accordance with 24 CFR Part 966 Subpart B to allow applicants, tenants, program participants and landlords the opportunity to request a hearing if they dispute, within the designated time, any of the following:
1. Applicant's denial of housing.
 2. Any action or failure to act involving violations of the tenant's lease with the Housing Authority.
 3. Any action or failure to act involving violations that result in the cancellation of a Housing Assistance Payment Contract.
 4. Any action or failure to act involving violations any provisions of the following:
 - a. Policies of the Housing Authority of the City of Franklin.
 - b. Regulations initiated by the Department of Housing and Urban Development that govern Housing Authority as stated in the Code of Federal Regulations including but not limited to 24 CFR Parts 5, 888, 960, 966, 985.
 - c. City of Franklin Building Code that creates a health and safety issue.
 - d. State Fire Code that creates a health and safety issue.

II. APPLICABILITY

- A. This Grievance Procedure Policy will be followed for appeals received in writing within the designated time frame.
- B. Written appeals received after the designated time frame will not be considered, excepting only in an appropriate judicial proceeding.
- C. Individuals may appeal any decision made under this Grievance Procedure Policy by filing for a hearing in court.

- D. The Grievance Procedure Policy is not applicable for the following circumstances:
 - 1. Disputes between tenants that do not involve the Housing Authority of the City of Franklin.
 - 2. Initiating or negotiating policy changes between a group or groups of tenants and the Housing Authority of the City of Franklin's Board of Commissioners.

III. INFORMAL SETTLEMENT OF GRIEVANCE

- A. Applicants, tenants, program participants and landlords may initially request an Informal Hearing in writing within the designated time from the date of the action from the Housing Authority of the City of Franklin.
- B. The request must be in writing and must be presented to an employee of the Housing Authority of the City of Franklin at the designated Administrative Office.
- C. The written request must be received within the designated time frame or the complainant will lose their right to an Informal Hearing.
- D. The applicants, tenants, program participants and landlords are notified of the decision of an informal settlement, in writing, within a reasonable time with a copy that retained in the Housing Authority of the City of Franklin's file of the complainant.
- E. The written decision shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the procedures to request a Formal Hearing if the complainant is not satisfied with decision.

IV. PROCEDURES

A. INFORMAL HEARING

1. An Informal Hearing is required as the initial step to resolve any disputes between the Housing Authority of the City of Franklin and a complainant.
2. Applicants, tenants, program participants and landlords who do not submit a written appeal within the designated time frame will lose their right to an Informal Hearing and any other consideration of their grievance excepting only in an appropriate judicial proceeding.
3. Appeal Criteria
 - a. Denial of an application for housing assistance
 - b. Public Housing Tenant
 1. Lease Termination
 2. Eviction
 3. Denial of a pet
 4. Removal of a pet
 - c. Section 8 Housing Choice Voucher Program
 1. Cancellation of a Housing Assistance Payment Contract
 2. Terminate housing assistance for program participants
 3. Deny a landlord permission to have a unit or units participate in the program
 4. Debar (prohibit) a landlord from participating in the program entirely

4. Procedures for Requesting and Conducting an Informal Hearing
 - a. The complainant shall present a written appeal in the following manner:
 1. First Class Mail
 2. Left in the Housing Authority of the City of Franklin's drop-off box located at the Administrative Office
 3. Handed to an employee of the Housing Authority of the City of Franklin
 - b. An employee of the Housing Authority of the City of Franklin will date-stamp the letter and envelope upon receipt.
 - c. The complainant is sent a certified letter stating the date, time, and location of the Informal Hearing.
 - d. The complainant is given the opportunity to reschedule the Informal Hearing for only the following reasons:
 1. Conflict with their work schedule.
 2. The request of the attorney representing the complainant.
 3. Medical reasons that are certified by a physician in writing.
 4. Death of family member supported by a Death Certificate or published obituary.
 - e. Any Complainant who does not reschedule by the designated date or does not appear at the scheduled time loses their right for an Informal Hearing and may not raise the issues at any other proceeding, excepting only in an appropriate judicial proceeding.
 - f. The Informal Hearing is conducted by the Housing Authority of the City of Franklin's Solicitor, with employees of the Housing Authority of the City of Franklin, the complainant and their representatives and/or witnesses.

- g. All parties are given the opportunity to present information, documents, and statements pertaining to the complaint. The complainant may also be given an opportunity to present additional information within an agreed upon time frame.
- h. The Housing Authority of the City of Franklin employees and Solicitor review the information presented and render a decision.
- i. The results of the Informal Hearing are sent to the complainant by certified mail.
- j. If the complainant disagrees with results of the Informal Hearing, they may request a Formal Hearing in writing within the designated time frame.

B. FORMAL HEARING

1. Procedure Requesting a Formal Hearing

- a. The complainant presents a written request for a Formal Hearing in the following manner:
 - 1. First Class Mail, or
 - 2. Left in the Housing Authority of the City of Franklin's drop-off box located at the Administrative Office, or
 - 3. Handed to an employee of the Housing Authority of the City of Franklin
- b. The written appeal may specify reasons for the grievance and the action or relief sought.
- c. An employee of the Housing Authority of the City of Franklin date-stamp the letter and envelope.

2. Appeal Hearing Panel Pool Selection Criteria
 - a. Individuals that sit on the Appeal Hearing Panel must be impartial to the complainant, the Housing Authority of the City of Franklin, and/or the issues raised by the appeal.
 - b. The following individuals are not permitted to be members of the Appeal Hearing Panel:
 1. Employees of the Housing Authority of the City of Franklin.
 2. Persons that previously participated in the Informal Hearing.
3. The Appeal Hearing Panel shall consist of five (5) members with one (1) alternate.
4. Appeal Hearing Panel pool members shall be recruited from the following groups:
 - a. Current members of the Housing Authority of the City of Franklin Board of Directors
 - b. The active Resident Council shall annually elect six (6) residents to be members of the Appeals Hearing Panel or the elected Officers and Ex-Officio Board Members may serve as members of the Appeals Hearing Panel.
 - c. Community leaders and professionals within the County of Venango.
5. The methods used to select an Appeal Hearing Panel are as follows:
 - a. The members of the Appeal Hearing Panel will rotate with each scheduled review.
 - b. At least 1 person is selected from each of the three groups listed in Paragraph 4 of the Section.
6. The complainant is sent a certified letter stating the date, time, and location of the Formal Hearing based on the availability of the proposed Appeal Hearing Panel.

7. Responsibilities of the Appeal Hearing Panel
 - a. Initially elect a Chair Person
 - b. Listen with an open mind.
 - c. Give all parties fair consideration.
 - d. Render a decision, after considering all of the evidence (testimony, documents, pictures, videos, witnesses, etc.), relevant policies and relevant regulations, based on a majority vote of the members.
 - e. The Appeal Hearing Panel must render one of the following decisions:
 1. Appeal Granted - The action taken against the applicants, tenants, program participants and landlords by the Housing Authority of the City of Franklin is revoked.
 2. Appeal Denied - The initial action taken against the applicants, tenants, program participants and landlords by the Housing Authority of the City of Franklin stands and the complainant must comply.
8. The request for the appeal and any documents are presented at the opening of the scheduled hearing.
9. All parties are given the opportunity to present evidence (testimony, documents, pictures, videos, witnesses, etc. outlined in the Order of Presentation.
 - a. Order of Presentation
 1. Burden of Proof
 - A. The Complainant must first make a showing of an entitlement to the relief sought.
 - B. Thereafter the Housing Authority of the City of Franklin must sustain the burden of justifying the Housing Authority of the City of Franklin action or failure to act against which the complaint is directed.

2. Opening Statements
 - A. The Complainant
 - B. The Housing Authority of the City of Franklin
3. Witnesses
 - A. The Complainant initially presents witness(s) for direct examination.
 - B. The Housing Authority of the City of Franklin cross-examines witness(s).
 - C. The Housing Authority of the City of Franklin presents witness(s) for direct examination.
 - D. The Complainant cross-examines witness(s).
4. Presentation of
 - A. The Complainant presents documents, pictures, videos, etc. together with any relevant policies and regulations.
 - B. The Housing Authority of the City of Franklin presents documents, pictures, videos, etc. together with any relevant policies and regulations.
5. Closing Statements
 - A. The Complainant
 - B. The Housing Authority of the City of Franklin
10. The results of the Formal Hearing will be sent to the complainant by certified mail stating the decision and the reasons with a copy placed in the Housing Authority of the City of Franklin's file on the complainant.

11. If the complainant fails appear at the scheduled hearing, the Appeal Hearing Panel may do one of the following:
 - a. Postpone the hearing for a period not to exceed five (5) business days.
 - b. Determine that the complainant has waived his or her right to a hearing.
 - c. The Appeal Hearing Panel will notify both parties of the decision in writing sent by certified mail.

12. The Housing Authority of the City of Franklin must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, attendants, or an accessible format for claimants that are visually impaired.

V. DEFINITION OF TERMS

Grievance

Shall mean any dispute, which a tenant may have with respect to Housing Authority of the City of Franklin action or failure to act in accordance with an application for housing, the individual tenant's lease, a Housing Assistance Payment Contract, or regulations which adversely affect the individual tenant's rights, duties, welfare or status.

Complainant

Shall mean any applicants, tenants, program participants and landlords whose grievance is presented to an employee of the Housing Authority of the City of Franklin at the designated Administrative Office.

Designated Time

Shall mean 5 calendar days from the notification to Complainant by the Housing Authority of a decision or action which gives rise to a Grievance.

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 applicant denying their application, eviction of tenants, and terminating the tenancy of program participants;
- (2) Right of the tenant to be represented by counsel;
- (3) Opportunity for the tenant to refute the evidence presented by the Housing Authority of the City of Franklin including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the applicant, tenant, program participant, and landlord may have;
- (4) A decision on the merits.

Hearing officer

Shall mean a person selected to hear grievances and render a decision with respect thereto.

Hearing panel

Shall mean a panel selected in to hear grievances and render a decision with respect thereto.

Tenant

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 Housing Authority of the City of Franklin 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.

Resident organization

Includes a resident management corporation.