



MARSHFIELD HOUSING AUTHORITY
TEA ROCK GARDENS
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**ADMINISTRATIVE GRIEVANCE PROCEDURE FOR
TENANTS RESIDING IN STATE-AIDED HOUSING
Adopted October 5, 2020**

I. Applicability

A. The purpose of the grievance procedure is to provide a prompt and reliable determination of grievances as hereinafter defined. This procedure is available to state-aided public housing tenants, participants in the Massachusetts Rental Voucher Program (MRVP) and the Alternative Housing Voucher Program (AHVP), and to individuals who file appeals pursuant to 760 CMR 8.00 (Privacy and Confidentiality).

B. This grievance procedure shall not apply to grievances concerning a termination of a tenancy based upon any of the following:

(1) Nonpayment of rent;

(2) In the event the Marshfield Housing Authority (MHA) has reason to believe that tenant or household member:

- a. has unlawfully caused serious physical harm to another tenant or employee of the MHA or any other person lawfully on the MHA's property;
- b. has threatened to cause serious physical harm to any member of a tenant household or an MHA employee or any person lawfully on the MHA's property;
- c. has destroyed, vandalized or stolen property of any member of a tenant household or of the MHA or of any person lawfully on the MHA's property, if such conduct involved a serious threat to the health or safety of any such person;
- d. has possessed, carried or illegally kept a weapon on or adjacent to the MHA's property in violation of MGL c.269 § 10;
- e. has possessed or used an explosive or incendiary device on or adjacent to MHA's property or has otherwise violated MGL c.266 §§ 101, 102, 102A or 102B;
- f. has unlawfully possessed, sold or possessed with intent to distribute a class A, B or C controlled substance, as defined in MGL c.94C §31, on or adjacent to the MHA's property;
- g. has engaged in other criminal conduct which has seriously threatened or endangered the health or safety of any member of a tenant household, a MHA employee, or any person lawfully on the MHA's property: or
- h. has engaged in behavior which would be cause for voiding the lease pursuant to the provisions of MGL, c139, §19;



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- i. any other reason set forth in MGL c. 121B, section 32; or
- (3) in the event the MHA has reason to believe that a guest of a tenant or a guest of a household member has engaged in any of the behavior listed in subparagraph (2) above and that the tenant knew or should have known that there was a reasonable possibility that the guest would engage in misconduct.

II. Definitions

A. **Grievance.** A grievance is defined as: (1) an allegation by a tenant that the MHA or a MHA employee has acted or failed to act in accordance with the tenant's lease or any statute, regulation, or rule regarding the conditions of tenancy and the alleged action or failure to act has adversely affected the status, rights, duties or welfare of the grievant and/or a household member; (2) an allegation by an MRVP or AHVP program participant that the MHA or a MHA employee has acted or failed to act in accordance with any statute, regulation, or rule regarding the program and that the alleged action or failure to act has adversely affected the status, rights, duties, or welfare of the grievant or a household member; or (3) an appeal by a data subject pursuant to 760 CMR 8.00. The meaning of a statute, regulation or rule shall not be the subject of a grievance. A dispute between a tenant and another tenant or household member, in which the MHA is not involved, shall not be the subject of a grievance. A grievance shall not be filed by a tenant on behalf of another tenant or any household member of a tenant.

B. **Grievant:** any tenant or program participant who files a grievance. A grievant shall also include a data subject filing an appeal pursuant to 760 CMR 8.00.

C. **Tenant:** the adult person (or persons) who resides in the public housing unit and who executed the lease with the Marshfield Housing Authority as tenant or lessee of the dwelling unit or, if no such person now resides in the unit, the adult person who is the remaining head of household of the tenant family residing the unit. Tenant shall not include a live-in aide.

III. Initiation of a Grievance

A. A grievance regarding whether good cause exists for terminating a lease shall be initiated by a tenant, in writing, and shall be mailed (postmarked) or delivered to the Marshfield Housing Authority (MHA) at its main office within seven (7) days after a notice of lease termination has been given to the tenant by the MHA. (See Part A I(B) above for lease terminations where a tenant has no right to the grievance procedure.)

B. A grievance regarding whether cause exists for terminating participation in the MRVP or AHVP programs shall be initiated by a program participant, in writing, and shall be mailed (postmarked) or delivered to the MHA at its main office within seven (7) days after a notice of program termination has been given to the tenant by the MHA.

C. A grievance regarding some other matter shall be initiated by a grievant in writing and shall be mailed (postmarked) or delivered to the MHA at its main office no more than fourteen (14) days after the date on which the grievant first became aware or should have become aware of the subject matter of the grievance, provided the MHA shall have discretion to permit a grievance to be initiated late.



D. In the event that a tenant files a grievance as to the amount of a re-determined rent within fourteen (14) days of the MHA's notice of the re-determined rent, the tenant shall continue to pay the rent then in effect (unless the re-determined rent is lower) until final disposition of the grievance. Upon final disposition of the grievance, the tenant shall pay any additional amounts determined to have been due but not paid since the effective date set out in the notice of predetermined rent or the MHA shall credit the tenant with any amounts paid but determined not to have been due.

E. The MHA shall permit additional time for initiation of a grievance if the MHA shall find that there was a good reason for late initiation of the grievance and that the late initiation would not cause prejudice to the MHA. The MHA shall have available forms on which a grievance may be initiated.

IV. Informal Settlement of Grievance

Promptly after the initiation of a grievance, unless otherwise provided, the MHA 's Executive Director or his or her designee shall give the grievant the opportunity to discuss the grievance informally in an attempt to settle the grievance without the necessity of a grievance hearing. The MHA shall give reasonable advance notice to the grievant and his or her representative (if any) of a time and place for an informal settlement conference, unless such a conference shall have taken place when the grievance was delivered to the MHA. At the informal settlement conference, the MHA and the grievant may be represented by a lawyer or by a non-lawyer. If the grievance is resolved at the informal settlement conference, the MHA and grievant shall acknowledge the terms of the resolution in writing. If the grievance is resolved at the informal settlement conference no grievance hearing shall be held. If a grievance is not resolved at the informal conference, a grievance hearing shall be held. Failure to attend an informal settlement conference shall not affect a grievant's right to a grievance hearing.

V. Hearing on a Grievance

A. Hearing Officer

The MHA's hearing Officer shall conduct hearings on grievances filed by a public housing tenant, a program participant, or a data subject concerning a grievable matter.

B. Hearing Date and Notice of Hearing

1. The MHA shall schedule a grievance hearing (on lease terminations subject to this grievance procedure) regarding whether good cause exists for terminating a lease within thirty days (30) from receipt of the request for a hearing and at least fifteen (15) days prior to the date of termination. The MHA shall give grievant reasonable written notice of the date, time and place of the hearing. At the grievance hearing any additional reason(s) for termination of the lease, which arose subsequent to the date of the notice of termination, shall be considered so long as the MHA has given written notice to the grievant as to the additional reason(s) not less than three (3) days before the hearing, or, if the additional reason(s) for termination shall have arisen within such three (3) day period, a subsequent session of the hearing may be scheduled on not less than three (3) days notice to consider such reason(s). In lease terminations if grievant is entitled to request a grievance hearing and has made a timely request, the MHA shall not file a summary process summons and complaint seeking an eviction pending the hearing and a decision or other resolution in the MHA' s favor.



2. A hearing of a grievance regarding an issue other than lease termination shall be scheduled as soon as reasonably convenient following receipt of the grievance. The MHA shall give reasonable advance written notice of the time and place of the hearing to the grievant and to his or her representative, if any is known.

3. The MHA or the Presiding Member may reschedule a hearing by agreement of the MHA and the grievant; or upon a showing by the grievant or by the MHA that rescheduling is reasonably necessary.

C. Pre-Hearing Examination of Relevant Documents

Prior to a grievance hearing the MHA shall give the grievant or his or her representative a reasonable opportunity to examine MHA documents which are directly relevant to the grievance. Following a timely request, the MHA shall provide copies of such documents to grievant and for good cause (including financial hardship), may waive the charge for the copies.

D. Persons Entitled to be Present

The grievance hearing shall be private unless the grievant requests that it be open to the public. If the grievant requests an open hearing, the hearing shall be open to the public unless the Hearing Officer otherwise orders. One reason for not allowing a public hearing may be because the privacy of other tenants or persons could be adversely affected by a public hearing. The MHA and the grievant shall be entitled to specify a reasonable number of persons who may be present at a private hearing. A challenge to the presence of any such person shall be decided by the Hearing Officer. At the grievance hearing, the MHA and the grievant may be represented by a lawyer or by a non-lawyer. Each person present at the hearing shall conduct himself or herself in an orderly manner or he or she may be excluded. If the grievant misbehaves at the hearing, the Hearing Officer may take other appropriate measures to deal with the misbehavior including dismissing the grievance.

E. Procedure at Grievance Hearings

The Hearing Officer shall conduct the grievance hearing in a fair manner without undue delay. The Hearing Officer shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material, shall be received regarding such issues. Both the grievant and the MHA shall be entitled to question each other's witnesses. Procedure at the hearing shall be informal, and formal rules of evidence shall not apply. The hearing shall be tape recorded. The Hearing Officer may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and MHA rules and policies. The Hearing Officer may request the MHA or the grievant to produce additional information which is relevant to the issues or which is necessary for a decision to be made provided that the other party is provided an opportunity to respond to such additional information. The tapes of the hearing shall be maintained by the MHA until any applicable appeals have been decided. During that time grievant and or his or her representative may listen to the tapes at the MHA's offices.

F. Written Decision by the Hearing Officer

Within a reasonable time after the hearing, the Hearing Officer shall provide the MHA with a written decision on the grievance, describing the factual situation and ordering whatever relief, if any, that shall be appropriate under the circumstances and under applicable laws, regulations, rules and/or policies. The decision shall be based on the information at the grievance hearing and such additional information as may have been provided to the Hearing Officer at his/her request. The MHA shall forthwith mail or otherwise deliver a copy of the



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decision to the grievant and his or her representative if any. A copy of the decision (with names and personal identifiers redacted) shall thereafter be maintained at the MHA and shall be open to public inspection.

G. Review by the MHA's Board of Commissioners (the Board)

In cases where the decision of the Hearing Officer concerns whether good cause exists for terminating a lease, there shall be no review by the MHA's Board. In other cases, in the event that the grievant or the MHA believes that: (a) the decision of the Hearing Officer is not supported by the facts; (b) the decision does not correctly apply the terms of the lease or applicable laws, regulations, rules and/or policies; or (c) the subject matter is not grievable, within fourteen (14) days of mailing or other delivery of the decision, the grievant or the MHA may request review of the decision by the MHA's Board. The Board shall promptly decide whether to uphold, set aside or modify the decision after permitting the MHA and grievant to make oral presentations and/or submit documentation. The Board may also permit the Hearing Officer to make a presentation. The Board's review shall be at an open meeting unless an executive session is warranted pursuant to the Open Meeting law. The decision of the Board shall be in writing and shall explain its reasoning. If a written decision is not rendered within forty-five (45) days from the date a review is requested, the decision of the Board, when rendered, shall specify a reason showing that there has been no undue delay.

H. Review by the Department of Housing and Community Development (DHCD)

In the event that the MHA's Board shall make a material change in a decision of the Hearing Officer, upon written request of the grievant, made to DHCD within fourteen (14) days of mailing or other delivery of the Board's decision, DHCD shall review the decision of the Board and shall render a written decision upholding, setting aside or modifying the decision of the Board. DHCD shall mail copies of its decision to the MHA and the grievant or to their attorneys.

I. Effect of a Decision on a Grievant

The final decision on a grievance (after any properly requested administrative reviews have been decided) shall be binding between the MHA and the grievant with respect to the particular circumstances involved in the grievance, provided that if a court has jurisdiction to determine a matter which has been subject to decision on a grievance, the court's determination on the matter shall supersede the decision on the grievance. In the event the Hearing Officer's decision on a grievance determines that good cause exists for terminating a lease, the MHA may, upon receipt of the decision, file a summary process summons and complaint, and there shall be no review by the Board or DHCD. The fact that a person may have failed to grieve a matter shall not affect any such jurisdiction by a court. As between the MHA and any person who was not a grievant, the decision on a grievance shall have no binding effect.

Approved by:

MHA Board of Commissioners

BY: _____
Chairman

Date: _____

END OF POLICY



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