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Title: Grievance Procedure Policy

Date Created: 11/28/2007
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Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Policy: Grievance Procedure Policy

I. Purpose and Applicability; Sovereign Immunity

- A. The Board of Commissioners (“Board”) of the Absentee Shawnee Housing Authority, a Tribally-Designated Housing Entity (“TDHE”), hereby enacts this Grievance Policy and Procedure (“Policy”) in order to provide a process to resolve disputes regarding the delivery of housing services.
- B. The Executive Director of the TDHE shall administer this Policy in accordance with applicable laws and regulations.
- C. The grievance/appeal procedure set forth in this Policy does not alter or abridge the sovereign immunity of the TDHE or the Absentee Shawnee Tribe of Oklahoma (“Tribe”) in any way, and this Policy shall not be construed as such waiver.

II. Integration of Grievance Procedures; Conflict of Interest

- A. The right to appeal any qualifying action or omission of the TDHE, its employees and/or agents hereby is incorporated in all participating leases, contracts and operating policies.
- B. No family member or close relative of the Complainant shall participate in the complaint resolution or grievance process. The Conflict of Interest Policy of the TDHE hereby is adopted and incorporated by reference.

III. Definitions

- A. **COMPLAINANT** means and refers to any tenant or participant in a housing project or program operated by the TDHE, client, contractor or tribal member whose rights, duties, welfare or status are, or may be, adversely affected by any action or failure to act of the TDHE, and who files a Grievance or Complaint with respect to such action or failure to act, after first attempting to resolve the complaint informally.



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- B. GRIEVANCE or COMPLAINT** means and refers to any dispute with respect to any action or failure to act of the TDHE, its employees or agents which affects the rights, duties, welfare or status of the Complainant.

IV. Limitations

- A.** This process shall not apply to matters governed by other applicable law or policy, including but not limited to the employee grievance process.
- B.** The grievance procedure shall not be available and may not be utilized where the subject matter of the grievance concerns any criminal or drug-related activity that threatens the health or safety of other participants, neighbors or TDHE employees, as determined by the TDHE, in its sole discretion.
- C.** The Complainant may forfeit his/her right to the grievance procedure, and the grievance procedure may be terminated by the TDHE and/or the Board at any level, in the event the Complainant: (i) fails to timely prosecute the appeal, (ii) fails to appear personally or by legal counsel at any scheduled conference or hearing and/or (iii) fails to exhibit professional or dignified conduct at such conference or hearing.
- D.** This Policy shall be implemented and may be conformed to comply with applicable provisions of the Native American Housing Assistance and Self-Determination Act of 1996, as amended (“NAHASDA”), the rules and regulations of the United States Department of Housing and Urban Development (“HUD”), and other applicable tribal, state and federal laws. **This Policy shall not be construed or applied to prevent the TDHE and/or the Tribe from complying with the terms and conditions of any federal grant or contract, including any rules or regulations applicable to HUD-assisted programs.**
- E.** Failure to follow any requirement of this Policy may result in dismissal of the Grievance or Complaint without further notice or consideration.

V. Notice of Procedures

A copy of this Policy shall be posted prominently in the offices of the THDE, and shall be provided to any tenant, homebuyer, resident or applicant, any other housing-related program participant, contractor, or tribal member upon request.



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VI. Effect of Grievance Procedure

- A. The filing of a Grievance or Complaint shall not suspend, negate, delay or disrupt the implementation of a decision or action of the TDHE, including the filing of an unlawful detainer (eviction) proceeding.
- B. After completion of the grievance procedure, an unlawful detainer action shall commence if the Tenant does not voluntarily vacate in accordance with the decision of the Board.

VII. Complaint Resolution Procedure In Lieu of Grievance

- A. The Complainant shall complete the attached form, stating the entire Grievance or Complaint as clearly and as concisely as possible. The form shall be mailed or hand-delivered to the TDHE within five (5) business days of the action or failure to act, which is the basis of the grievance. A Complainant's failure to present the grievance or complaint within the 5-day time frame waives any right to further relief.
- B. The grievance form shall be dated, initialed and recorded by a member of the TDHE's staff at the time of delivery.
- C. The Executive Director or his/her designee shall meet with the Complainant and attempt to resolve the Grievance or Complaint in lieu of the formal grievance procedure set forth in Section VIII, below, within ten (10) calendar days of receipt of the form. In case of a conflict of interest, the Executive Director shall waive the complaint resolution prerequisite and authorize the Complainant to proceed directly to the formal grievance procedure set forth in Section VIII, below.
- D. Within ten (10) calendar days of the meeting wherein the Complaint is considered, the Executive Director or his/her designee shall prepare a summary of the discussion. One copy of the summary shall be given to the Complainant and the other retained in the Complainant file. The summary shall specify: (i) the names of the participants in the discussion, (ii) the date of the discussion, and (iii) the proposed disposition of the Grievance or Complaint. In addition, the Executive Director or his/her designee shall notify the Complainant of his/her right to file a formal grievance within ten (10) calendar days of the date the summary is transmitted to the Complainant.

VIII. Grievance Procedure

- A. If the Complainant requests a grievance hearing in writing within ten (10) calendar days of the date of the TDHE's response to the Grievance or Complaint, the Chairperson of the Board will include the grievance on the agenda for the next regularly scheduled meeting of the Board.



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- B.** The Complainant shall submit a written request for a grievance hearing at least one week prior to the Board meeting (i.e., by the close of business on the preceding Wednesday) in order to be included on the agenda for that meeting. The grievance hearing may be scheduled or re-scheduled in order to accommodate any open meeting laws or special notice requirements that may be applicable to the TDHE.
- C.** The Complainant shall be notified by the most reasonable method of service under the circumstances at least five (5) calendar days prior to the scheduled hearing.
- D.** The Board shall function as the hearing panel regarding the Grievance or Complaint, and shall preside over the hearing. The Board shall make the final determination as to questions of rules and procedure. The Board may be advised by and consult with TDHE staff and/or legal counsel on procedural matters during this process.
- E.** If the Complainant fails to appear at the scheduled grievance hearing, the Board may: (i) postpone the hearing, (ii) determine that the Complainant waived his/her right to a hearing, or (iii) may decide the matter without participation of the Complainant. Both the Complainant and the TDHE shall be notified of such determination.
- F.** The Board shall discuss and attempt to resolve the grievance informally; oral or documentary evidence pertinent to the facts and issues raised by the Complainant may be received without regard to whether that evidence would be admissible under the rules of evidence employed in judicial proceedings.
- G.** Grievance matters, including the hearing, may be confidential and not open to the public depending upon the subject matter, as determined by the Board in its sole discretion.
- H.** The decision of the Board shall be based solely and exclusively on facts presented at the hearing, consultation with the Executive Director and legal counsel, applicable governing law, HUD regulations, and requirements of funding agreements entered into by HUD, the TDHE, the Tribe and/or other funding agencies.
- I.** The Complainant shall have the opportunity and right to: (i) examine before and during the hearing and, at the expense of the Complainant, to copy all documents, records and regulations of the TDHE directly relevant to the grievance hearing, (ii) present evidence and argue in support of the Grievance or Complaint, (iii) contest evidence or information relied on by the TDHE and (iv) inquire of any and all witnesses upon whose testimony or information the TDHE relies, (v) provided that the Complaint discloses such representation in writing to the TDHE no later than five (5) calendar days prior to the hearing.
- J.** The parties, counsel and other participants or spectators shall conduct themselves in an orderly fashion. Failure to comply with the directions of the Board may result in exclusion



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from the proceedings, in a decision adverse to the interests of the disorderly party or in such other relief as the Board shall reasonably determine.

- K.** Within fifteen (15) calendar days of the grievance hearing, the Chairperson of the Board will prepare a summary of the decision and the specific grounds upon which the decision was based. One copy of the decision shall be given to the Complainant and one retained in the TDHE's file.
- L.** The decision of the Board shall be binding on the TDHE, and the TDHE shall take all actions or refrain from any actions necessary to carry out the decision unless the Executive Director determines within a reasonable time, and promptly notifies the Complainant and the Board of his/her determination that the decision of the Board is contrary to applicable governing law, HUD regulations, or requirements of funding agreements entered into by HUD, the TDHE, the Tribe and/or other funding agencies.
- M.** The decision of the Board shall be final and not subject to further appeal.

IX. Modification

This Policy may be modified or repealed in whole or in part by the Board from time to time, provided that the rights of a Complainant who has a pending grievance proceeding shall not be prejudiced by such modification.



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ABSENTEE SHAWNEE HOUSING AUTHORITY

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GRIEVANCE FORM

(for Absentee Shawnee Housing Authority Clients and Program Participants, Contractors and Tribal Members with Housing-Related Grievances, Complaints or Concerns)

Name: _____ **Date:** _____

Address: _____ **Telephone:** _____

_____ **Tribal ID# (if applicable):** _____

My concern rests with:

_____ The general operation of Tribal housing programs

_____ The action or failure to act of, _____, a Housing Authority employee.
(Name)

_____ Other. Please Explain: _____

Grievance, Complaint or Concern:

I would consider this grievance, complaint or concern resolved if:
