

“GRIEVANCE & HEARING PROCEDURES”

Dwelling Lease

Addendum #E

GRIEVANCE & HEARING PROCEDURES

The following subsections outlines the purpose of the KHA’s grievance and hearing procedures that is to set forth uniform procedures for the handling, maintenance and review of applicant and resident grievances. These procedures will assure that all applicant and residents are treated in a fair and equitable manner and are provided an avenue for reasonable review of grievances.

1. **“Informal” Review/Hearing Procedure for “Applicants”**: Informal Reviews are only provided for applicants who are denied from the program waiting list and assistance before the effective date of the Dwelling Lease. The KHA will give prompt written notice to any applicant who is found ineligible for admissions or is denied a preference.
 - A. The notice will contain a brief written statement of the reason(s) for the decision, and except as provided below; provide an opportunity for an informal hearing to grievance the denial. The notice will contain:
 - A.1. The reason(s) they were found ineligible;
 - A.2. The procedure for requesting an informal review if entitled to a review, if the applicant does not agree with the KHA’ decision;
 - A.3. The time limit for requesting an Informal Review.
 - B. The KHA “must provide” applicants with the opportunity for an informal review of decisions denying:
 - B.1. Qualification for a preference;
 - B.2. Listing on the KHA’s waiting list;
 - B.3. Participation in program, with the limitations as described below:
 - C. Informal Reviews are “not available” for the following:
 - C.1. Discretionary administrative determination by KHA;
 - C.2. General Policy issues or class grievances;
 - C.3. Determination of the family’s unit size under KHA’s occupancy standards;
 - C.4. KHA’s determination that a unit is not in compliance with HQS/Uniform Physical Condition Standards Inspection because of family size or composition;
 - C.5. Restrictions on assistance for applicants who owe money to the KHA or another Housing Authority or landlord;
 - C.6. Restrictions on assistance to applicants who have been terminated from past assistance due to violations;

- C.7. Restrictions on assistance to applicants who owe money to the public utility district and/or cannot open an account in their name because of outstanding debts;
 - C.8. Restrictions on assistance to applicants whose history includes any criminal activity, drug related, or activity that otherwise threatens the health, safety, or right to peaceful enjoyment of KHA's employees, tenants, guests, or neighbors, within five (5) year of the criminal and/or drug related act.
- D. Restrictions on Assistance for Non-Citizens: Families denied assistance due to their immigration status will be advised of their right to request an appeal to the INS of the INS's verification results or request an informal review with the KHA in lieu of or upon completion of the INS appeal. The notice will also inform the applicant:
- D.1. The reason for the denial;
 - D.2. That the applicant may be eligible for prorated assistance based on the number of family members with "eligible immigration status";
 - D.3. Of the time limits and procedures that must be followed when requesting an appeal to the INS and/or KHA;
 - D.4. That the assistance may not be delayed, denied or reduced until the INS appeal process concludes but that assistance may be delayed while awaiting outcome from the KHA's informal review process.
- E. Other Rights: The applicant may exercise other rights if the applicant believes he/she has been discriminated against based on race, color, religion, sex, national origin, age, familial status, handicap or other protected status.
2. **"Procedures" Governing "Informal" Hearing/Grievances for "Applicants"**: A awarded a fair hearing providing the basic safeguards of due process which include the following:
- A. All requests must be made in writing to the KHA within ten (10) calendar days from the date of the KHA's notification of denial for assistance/eligibility. The KHA has an Informal Hearing/Grievance form, to request such hearing. If the applicant fails to request such hearing within the request time limit requirement, the determination of denial/eligibility will be deemed final.
 - B. The informal hearing will be scheduled promptly within an approximate ten (10) calendar days from the date the request was received by the KHA. No extensions or reschedules will be considered or granted except for rare extraordinary (hardship) reasons and shall be agreed to, in writing by both parties. If granted for an extension and/or a reschedule hearing date, only up to one (1) extension and/or reschedule will be granted for any circumstance.

- C. Be held before a hearing officer; by the Executive Director or his/her assigned designee and/or along with the person who made or approved the decision under review;
- D. Be held and conducted in the KHA administration office;
- E. Applicant/complainant will have the opportunity to examine, before the hearing, any KHA documents, including records and regulations relevant to the hearing. The applicant must submit their request in writing, at the scheduled time by the KHA, may copy such documents at applicant's expense. If KHA does not make the documents(s) available for examination in response to the applicant/complainant's reasonable request, the KHA may not rely on such documents(s) at the hearing;
- F. The right to a private hearing;
- G. The right to be present written and/or oral evidence and arguments in support of the applicant's eligibility or preferences to controvert KHA's evidence. KHA must have the opportunity to examine at the KHA's office before the hearing, any documents directly relevant to the hearing. KHA may copy any such documents at KHA's expense. Any document not made available to the KHA before the hearing, at least five (5) calendar days prior to the hearing, cannot be relied upon at the hearing. *This may be waived on a case-by-case basis, at the discretion of the Executive Director, to "reasonably" assist applicants who are elderly or disabled.
- H. A decision based solely on and exclusively upon the facts presented at the hearing;
- I. The right to cross-examine any witnesses, upon whom the KHA intends to rely on, provided applicant gives 48 hours advance written notice to KHA of intent to cross-examine KHA's witnesses. If applicant fails to give such notice, the hearing officer will rely on the information in the applicant's file only.
- J. Additional Informal Hearing Procedures:
 - J.1. The hearing officer may render a decision without a hearing if the hearing officer determines that the issue was previously decided in another proceeding;
 - J.2. If the applicant/complainant or KHA fails to present evidence or arguments to the hearing officer, the hearing officer may determine that the party has waived the right to a hearing. The applicant/complainant will be notified that a determination based on such waiver will not constitute a waiver of any right the applicant/complainant may have to contest the disposition of the grievance in an appropriate judicial proceeding;

- J.3. At the hearing, the applicant must first show entitlement to the relief sought; KHA must then sustain the burden of justifying its conduct that is the subject of the complaint;
 - J.4. The hearing will be conducted informally. Relevant evidence may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer will require KHA, the complainant, council and any other participants or spectators to conduct themselves in an orderly fashion. Both the applicant/family and KHA may have a maximum of three (3) other persons attend the hearing. Because of the serious nature of the hearing process, children will not be allowed in the hearing room unless serving as a witness. Applicant/families are responsible for necessary childcare. Failure to comply with the hearing officer's directions to maintain order may result in being excluded from the proceedings or a decision adverse to the interests of the disorderly party and/or the granting or denial of the relief sought, as appropriate.
 - J.5. The KHA will reasonably accommodate persons with disabilities so they can participate in the hearing.
- K. Hearing Officer's Decision:
- K.1. The hearing officer will prepare a written decision, together with the reasons therefore, within an approximate ten (10) calendar days after the hearing and promptly mail a written decision to the applicant and KHA.
 - K.2. The decision will specify the names of the participants, hearing date, proposed disposition of the complaint and specific reasons therefore. A copy of such decision, with all names and identifying references deleted, will also be maintained on file by the KHA and may be available for inspection by a prospective complainant, his/her representative, or the hearing officer.
 - K.3. The hearing officer's decision will be binding on KHA unless the KHA Executive Director reasonably determines and notifies the complainant the decision is contrary to applicable law, HUD regulations or requirements of the annual contributions contract between the KHA and HUD.
- L. Judicial Review: A decision by the hearing officer or Executive Director, in favor of the KHA or which denies in whole or in part the relief requested by the complainant will not affect any rights the complainant in any judicial proceedings.
- M. Amending the procedures governing Informal Hearing/Grievances for Applicants: The KHA reserves the right to amend these procedures. To amend this grievance procedure, the KHA will provide a 30-days notice of the changes and opportunity to present written comments. Such notice will be posted on each KHA bulletin board.

3. **“Procedures” Governing Hearing/Grievances for “Residents”:** Public Housing residents are entitled to an informal and formal hearing to grievance eligible items as stated below.
- A. The grievance procedure set forth herein has been adopted by the KHA Board of Commissions and is incorporated by reference in the Public Housing Dwelling Lease and House Rules.
 - B. Copies of this grievance procedure shall be available for review to any interested party at the KHA administration office.
 - C. This grievance procedure shall be applicable, except as otherwise stated herein, to all individual grievances between the resident and the KHA as defined in below, except that the KHA will exclude from the KHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:
 - C.1. Any activity, not just criminal activity, that threatens the health, safety, or right to peaceful enjoyment of the KHA’s employee staff, other residents, guests, or neighbors;
 - C.2. Any drug related criminal activity on or off the premises.
 - D. This grievance procedure shall not be applicable for disputes between residents not involving the KHA or to class action grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the KHA’s Board of Commissioners.
 - E. This grievance procedure shall not be applicable to any KHA Section 8 Program.
 - F. Informal Reviews are “not available” for the following:
 - F.1 Discretionary administrative determinations by the KHA;
 - F.2. General Policy issues or class grievances;
 - F.3. Establishment of the KHA schedule of utility allowances for families in the program;
 - F.4. KHA’s determination that a unit is not compliant with HQS/Uniform Physical Condition Standards Inspection because of family size or composition;
 - F.5. Dispute between residents not involving the KHA;
 - F.6. Efforts to initiate or negotiate changes between a resident or group of residents and the KHA’s Board of Commissioners;
 - F.7. Any PHA Section 8 Programs.

4. **Definitions:**

- A. **Complainant:** Any resident whose grievance is presented to the KHA in accordance with the procedures set forth herein.
- 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:
 - B.1. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
 - B.2. Opportunity for the resident to examine all relevant documents, records and regulations of the KHA prior to the trial for the purpose of preparing a defense;
 - B.3. Right of the resident to be represented by counsel;
 - B.4. Opportunity for the resident to refute the evidence presented by the KHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have;
 - B.5. A decision on the merits.
- C. **Grievance:** Any dispute which a resident may have with respect to the KHA action or failure to act in accordance with the individual resident's lease or KHA regulations which adversely affects the individual resident's right, duties, welfare or status.
- D. **Hearing Officer:** A person selected in accordance with the procedures set forth herein to hear grievances and render a decision with respect thereto.
- E. **Lease:** Is the written legal agreement between the KHA and a resident.
- F. **Resident Organization:** Includes a resident management corporation.
- G. **Resident:** The adult person(s) (other than a live-in aide/care provider):
 - G.1. Who resides in the unit, and who executed the lease with the KHA as lessee of the unit, or, if no such person now resides in the unit;
 - G.2. Who resides in the unit, and who is the remaining head of household of the family residing in the unit.

5. **"Informal" Hearing Process for "Residents":** Any grievance shall be presented and must meet the KHA's criteria as stated in the following subsections for an informal hearing, so that the grievance may be discussed and settled without a formal hearing.

- A. **Procedures Governing Informal Hearing/Grievances for Residents:** A request for an Informal Review will contain, so the tenant be afforded a fair hearing providing the basic safeguards of due process which include the following:

- A.1. All requests must be made in writing to the KHA within five (5) calendar days from the date of the KHA's notification of the act or failure to act upon which the complainant bases his/her grievance;
- A.2. The KHA has an Informal Hearing/Grievance form, to request such hearing. If the complainant fails to request such hearing within the request time limit requirement, the determination will be deemed final. The written request shall specify:
 - i. The grievance;
 - ii. The reasons for the grievance;
 - iii. The action or relief sought.
- A.3. The informal hearing will be scheduled promptly within an approximate ten (10) calendar days from the date the request was received by the KHA. No extensions or reschedules will be considered or granted except for rare extraordinary (hardship) reasons and shall be agreed to, in writing both parties. If granted for an extension and/or a reschedule hearing date, only up to one (1) extension and/or reschedule will be granted for any circumstance.
- A.4. The informal hearing will be held before a hearing officer; by the Executive Director or his/her assigned designee and/or along with the person who made or approved the decision under review;
- A.5. Be held and conducted in the KHA administration office;
- A.6. Resident/complainant will have the opportunity to examine, before the hearing, any KHA documents, including records and regulations relevant to the hearing. The complainant must submit their request in writing, at a scheduled time by the KHA, may copy such documents at their expense. If KHA does not make the documents(s) available for examination in response to the resident/complainant's reasonable request, the KHA may not rely on such documents(s) at the hearing;
- A.7. The right to a private hearing;
- A.8. The right to present written and/or oral evidence and arguments in support of the complainant's act or failure to act upon which the complainant bases his/her grievance to controvert KHA's evidence.
- A.9. KHA must have the opportunity to examine at the KHA's office before the hearing, any documents directly relevant to the hearing. KHA may copy any such documents at KHA's expense. Any document not made available to the KHA before and prior to the hearing (at least five (5) calendar days), cannot be relied upon at the hearing. *This may be waived on a case-by-case basis, at the discretion of the Executive Director, to "reasonably" assist residents who are elderly or disabled.
- A.10. A decision based solely on and exclusively upon the facts presented at the hearing;
- A.11. The right to cross-examine any witnesses, upon whom the KHA intends to rely, provided applicant gives 48 hours advance written notice to KHA of intent to cross-examine KHA's witnesses. If complainant fails to give such notice, the hearing officer will rely on the information in the resident's file only.

B. Additional Informal Hearing Procedures:

- B.1. The hearing officer may render a decision without a hearing if the hearing officer determines that the issue was previously decided in another proceeding;
- B.2. If the resident/complainant or KHA fails to present evidence or arguments to the hearing officer, the hearing officer may determine that the party has waived the right to a hearing. The resident/complainant will be notified that a determination based on such waiver will not constitute a waiver of any right the complainant may have to contest the disposition of the grievance in an appropriate judicial proceeding;
- B.3. At the hearing, the applicant/complainant must first show entitlement to the relief sought; KHA must then sustain the burden of justifying its conduct that is the subject of the complaint;
- B.4. The hearing will be conducted informally. Relevant evidence may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer will require KHA, the complainant, council and any other participants or spectators to conduct themselves in an orderly fashion. Both the resident/family and KHA may have a maximum of three (3) other persons attend the hearing. Because of the serious nature of the hearing process, children will not be allowed in the hearing room unless serving as a witness. Families are responsible for necessary childcare. Failure to comply with the hearing officer's directions to maintain order may result in being excluded from the proceedings or a decision adverse to the interests of the disorderly party and/or the granting or denial of the relief sought, as appropriate.
- B5. The KHA will reasonably accommodate persons with disabilities so they can participate in the hearing.

C. Hearing Officer's Decision:

- C.1. The hearing officer will prepare a written decision, together with the reasons therefore, within an approximate ten (10) calendar days after the hearing and promptly mail a written decision to the resident/complainant and KHA.
- C.2. The decision will specify the names of the participants, hearing date, proposed disposition of the complaint and specific reasons therefore. A copy of such decision, with all names and identifying references deleted, will also be maintained on file by the KHA and may be available for inspection by a prospective complainant, his/her representative, or the hearing officer.
- C.3. The hearing officer's decision will be binding, unless the KHA Executive Director reasonably determines and notifies the complainant the decision is contrary to applicable law, HUD regulations or requirements of the annual contributions contract between KHA & HUD.

- D. Judicial Review: A decision by the hearing officer or Executive Director, in favor of the KHA or which denies in whole or in part the relief requested by the applicant/complainant will not affect any rights the complainant in any judicial proceedings.
 - E. Amending the procedures governing Informal Hearing/Grievances for Applicants: The KHA reserves the right to amend these procedures. To amend this grievance procedure, the KHA will provide a 30-days notice of the changes and opportunity to present written comments. Such notice will be posted on each KHA bulletin board.
6. **“Formal” Hearing Process for “Residents”**: Any grievance shall be presented and must meet the KHA’s criteria as stated in the following subsections for a formal hearing, so that the grievance may be discussed that was not settled within the informal hearing process. As a prerequisite to receiving a formal hearing, all grievances shall:
- A. **“Procedures’ Governing “Formal” Hearing/Grievances for “Residents”**: A request for an Formal Review will contain so the tenant be afforded a fair hearing providing the basic safeguards of due process which include the following:
 - A.1. All requests must be made in writing to the KHA’s administration office within five (5) calendar days from the date of the KHA’s written results of the informal hearing notification determination.
 - A.2. The KHA has an Informal-Formal Hearing/Grievance form, to request such hearing. The written request shall specify:
 - i. The grievance;
 - ii. The reasons for the grievance;
 - iii. The action or relief sought.
 - A.3. If the complainant fails to request such hearing within the request time limit requirement, the determination will be deemed final.
 - A.4. The formal hearing will be scheduled promptly within an approximate ten (10) calendar days from the date the request was received by the KHA. No extensions or reschedules will be considered or granted except for rare extraordinary (hardship) reasons and shall be agreed to, in writing by both parties. If granted for an extension and/or a reschedule hearing date, only up to one (1) extension and/or reschedule will be granted for any circumstance.
 - A.5. The formal hearing will be held before a hearing officer; who is an impartial person; by the Executive Director or his/her assigned designee and/or along with the person who made or approved the decision under review;
 - A.6. Before a hearing is scheduled in any grievance involving the amount of rent which the KHA claims is due, the complainant shall pay to the KHA an amount equal to the amount of rent due and payable as of the first (1st) of the month preceding the month in which the action or failure to act took place. The resident/complainant shall thereafter deposit the same amount of the monthly rent into an escrow account at the KHA on a monthly basis

until the complaint is resolved by decision of the hearing officer. These requirements may be waived by the KHA in extenuating circumstances. Unless so waived, the failure to make such payments shall result in termination of the grievance procedure. Failure to make payment, as set forth above shall not constitute a waiver of any right to complainant may have to contest the KHA's disposition of the grievance in any appropriate proceeding.

- A7. Be held and conducted in the KHA administration office;
- A.8. Complainant will have the opportunity to examine, before the hearing, any KHA documents, including records and regulations relevant to the hearing. The resident/complainant must submit their request in writing, a scheduled time by the KHA, may copy such documents at their expense. If KHA does not make the documents(s) available for examination in response to the complainant's reasonable request, the KHA may not rely on such documents(s) at the hearing;
- A.9. The right to a private hearing;
- A10. The right to present written and/or oral evidence and arguments in support of the complainant's act or failure to act upon which the resident/complainant bases his/her grievance to controvert KHA's evidence.
- A11. KHA must have the opportunity to examine at the KHA's office before the hearing, any documents directly relevant to the hearing. KHA, at a reasonable time scheduled by the KHA, may copy any such documents at KHA's expense. Any document not made available to the KHA before and prior to the hearing (at least five (5) calendar days), cannot be relied upon at the hearing.
- A.12. A decision based solely on and exclusively upon the facts presented at the hearing;
- A.13. The right to cross-examine any witnesses, upon whom the KHA intends to rely, provided the resident gives 48 hours advance written notice to KHA of intent to cross-examine KHA's witnesses. If complainant fails to give such notice, the hearing officer will rely on the information in the applicant's file.

B. Additional Formal Hearing Procedures:

- B.1. The hearing officer may render a decision without a hearing if the hearing officer determines that the issue was previously decided in another proceeding;
- B.2. If the resident/complainant or KHA fails to present evidence or arguments to the hearing officer, the hearing officer may determine that the party has waived the right to a hearing. The resident/complainant will be notified that a determination based on such waiver will not constitute a waiver of any right the complainant may have to contest the disposition of the grievance in an appropriate judicial proceeding;
- B.3. At the hearing, the complainant must first show entitlement to the relief sought; KHA must then sustain the burden of justifying its conduct that is the subject of the complaint;

- B.4. The hearing will be conducted informally. Relevant evidence may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer will require KHA, the complainant, council and any other participants or spectators to conduct themselves in an orderly fashion. Both the resident/family and KHA may have a maximum of three (3) other persons attend the hearing. Because of the serious nature of the hearing process, children will not be allowed in the hearing room unless serving as a witness. Families are responsible for necessary childcare. Failure to comply with the hearing officer's directions to maintain order may result in being excluded from the proceedings or a decision adverse to the interests of the disorderly party and/or the granting or denial of the relief sought, as appropriate.
- B5. The KHA will reasonably accommodate persons with disabilities so they can participate in the hearing.

C. Hearing Officer's Decision:

- C.1. Hearing officer will prepare a written decision, with the reasons therefore, in an approximate ten (10) calendar days after the hearing and promptly mail a written decision to the resident/complainant and KHA.
- C.2. The decision will specify the names of the participants, hearing date, proposed disposition of the complaint and specific reasons therefore. A copy of such decision, with all names and identifying references deleted, will also be maintained on file by the KHA and may be available for inspection by a prospective complainant, his/her representative, or the hearing officer.
- C.3. The hearing officer's decision will be binding, unless the KHA Executive Director reasonably determines and notifies the resident/complainant the decision is contrary to applicable law, HUD regulations or requirements of the annual contributions contract between the KHA and HUD.

D. Judicial Review: A decision by the hearing officer or Executive Director, in favor of the KHA or which denies in whole or in part the relief requested by the resident/complainant will not affect any rights the complainant in any judicial proceedings.

E. Amending the procedures governing Formal Hearing/Grievances for Applicants: The KHA reserves the right to amend these procedures. To amend this grievance procedure, the KHA will provide a 30-days notice of the changes and opportunity to present written comments. Such notice will be posted on each KHA bulletin board.

_____ **Signature of Head of Household** **Date**

_____ **Signature of Spouse/Other Adult** **Date**

_____ **Signature of Head of Household** **Date**

_____ **Signature of Spouse/Other Adult** **Date**

_____ **PHA Representative/Title** **Date**