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July 2012

How and where tenants of federally-assisted housing may raise complaints regarding their housing

1. PUBLIC HOUSING: Individual issue/complaint that the PHA is not complying with the lease or following the PHAs rules
 - a. Put your arguments together
 - i. Get a copy of the rule that is being violated,
 - ii. Put together your evidence/proof, determine what solution/relief you want,
 - iii. Talk to other tenants and advocates about the problem/issue,
 - iv. Develop a strategy as to how you will proceed with the case.
 - v. *Always remember to reevaluate your strategy as you learn more information*
 - b. Get organized,
 - i. Put your information in a notebook
 - ii. Keep copies
 - iii. If you have a helpful conversation with someone, write down the information and consider whether to confirm the conversation with a letter stating your understanding of the conversation.
 - c. Resources:
 - i. Using Your Public Housing Grievance Process. Massachusetts Law Reform <http://www.masslegalhelp.org/housing/grievances>
 - ii. Use attached worksheet to organize your information
 - d. How to determine where to complain? There are several places where you might begin the process.
 - i. Check to see if the PHA has any written policies about where and how to file a complaint
 1. Review and copy
 - a. PHA Admission and Continued Occupancy Plan (ACOP)
 - b. Tenant lease
 - c. PHA Grievance Procedures
 - ii. Informal resolution
 1. Raise issue with the project manager

- a. For issues relating to the development and unit where you live, such as conditions of the common area or your unit
 - b. To more fully understand the manager's or the PHA's position
 - c. To obtain an early resolution of the problem
 - 2. Raise issue with the central staff of the PHA
 - a. If project manager does not respond or responds unfavorably
 - b. For issues relating to those of the Central Office, which may include income determinations, rent setting, etc.
- iii. Begin the Grievance Process, if the informal resolution does not work
 - 1. Issues that may be heard in a grievance hearing: Grievance means any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's right, duties, welfare or status." 24 CFR 966.50
 - 2. Grievance procedure not applicable "to disputes between tenants not involving the PHA or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners." 24 CFR 966.51(e) and 966.53(a).
 - 3. The Grievance Process is a two step process
 - a. The informal settlement of grievance. 24 CFR 966.54
 - i. Federal rules do not require a written request, but check local policy (the ACOP and/or grievance procedure). Often it is best to submit a written request at the informal settlement stage
 - ii. requires a written summary and notice of formal grievance hearing rights
 - b. Formal grievance hearing 24 CFR 966.55-966.57
 - i. Review the rules for the specific rights, such as a right to examine relevant information; at the expense of the tenant, the right to be represented at the hearing and to request that the hearing be recorded, etc
 - c. Decision
 - i. PHA is bound by decision, with two exceptions. 24 CFR 966.57(b)
 - 4. If the decision is not favorable to resident
 - a. Consider appeal to the Board of Commissioners
 - b. Consider informally consulting with the Tenant Commissioner(s) or other commissioners if you have a complaint that the PHA is not following the rules.
 - c. Consider raising the issue with HUD, see discussion below section 4.

5. Whether an adverse decision can be appealed to court will depend upon many factors.

2. VOUCHER PROGRAM INFORMAL HEARING

- a. Follow the above guidance in section 1.a (“Put your arguments together”) and 1.b. (“Get Organized”).
- b. How to determine where to complain
 - i. Review the Administrative Plan for the PHA
 - ii. Review notice from the PHA regarding termination of benefits, if applicable
- c. Voucher tenants are entitled to an informal hearing in the following situations
 - i. Voucher termination, which includes failure to enter into a contract with a landlord or approve a lease, failure to provide payments to a landlord under existing contract and failure to process or provide assistance under portability
 - ii. Determination of family income
 - iii. Determination of family utility allowance from PHA schedule
 - iv. Determination of family size from PHA subsidy standards
 - v. 24 CFR 982.552(a)(3) and 982.555(a).
- d. Voucher tenants are not entitled to a hearing in certain circumstances, including for discretionary administrative decisions, general policy and class grievances. See 24 CFR 982.555(b) for additional reasons.
- e. There are minimal due process protections set forth in the regulations governing the informal hearing, including
 - i. Examination of relevant documents prior to the hearing
 - ii. At the expense of the tenant to be represented
 - iii. A hearing officer that is not the person who made the initial determination or a subordinate of that person
 - iv. A written decision
 1. The PHA with certain exceptions is bound by the decision
 - v. 24 CFR 982.555
 - vi. Administrative appeal, see discussion above 1.d.iii.4 (“If decision not favorable to resident”)
 - vii. Whether an adverse decision may be appealed to court will depend upon many factors.

3. PROJECT-BASED SECTION 8 INFORMAL MEETING WITH OWNER/MANAGER

- a. A project-based Section 8 tenant is entitled to a 10 day notice of the right to a meeting with the owner, when the owner is seeking to evict the tenant or terminate the housing subsidy (special rules apply if the termination is because of immigration status) and at the request of the tenant the owner must meet with the tenant to explain how tenant’s rent is set.
- b. There are minimal tenant protections regarding the nature of the meetings. See HUD Handbook 4350.3 ¶¶ 8-17 D (discrepancies and errors) and 8-7C (immigration status)

4. PUBLIC HOUSING, VOUCHER PROGRAM AND PROJECT BASED SECTION 8

Individual or General Complaint that the PHA is not following HUD rules.

- a. In the event that you are unsuccessful with the individual complaint or if you have “a class grievance and therefore cannot use grievance process you may raise the issue with HUD. Follow the above guidance in 1.a “Put your arguments together” and 1.b. “Get Organized”.
 - i.
- b. Raise the issue locally with the PHA, if you have not already done so
 - i. Helps to determine/understand the reasons for the refusal to follow HUD rule
 1. Reasons may be lack of money, ignorance of or misunderstanding or different interpretation of the rule, etc.
 2. May help you in determining how to respond
 - ii. Will be helpful to show HUD that you tried to resolve the issue with the PHA
- c. Raise the issue with the local HUD office that is responsible for your PHA.
 - i. Remember that the HUD staff will most likely contact the PHA for their side of the story
 - ii. Local HUD office may refer you back to the PHA and you may have to ask the PHA again to respond to your complaint
 - iii. Consider asking local HUD to give guidance to the PHA, for example to rule in your favor, to respond to your request within a fixed period of time, etc.
- d. If the local office of HUD is unable to resolve the issues raise the complaint to the Statewide HUD office and/or the national HUD office in Washington, D.C.
- e. At the state and/or national level, determine which department within HUD to present the issue to. (Issue may be one that is of interest to more than one department within HUD.)
 - i. HUD Office of Fair Housing and Equal Opportunity (FHEO)
 1. If it is a fair housing issue, complaints about discrimination on the basis of race, ethnicity, familial status (discrimination based upon minor children in the household), religion, disability, including a request for reasonable accommodation because of disability, age etc.
 - a. Form HUD 903.1,
http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination
 - b. Call 1 (800) 669-9777, to file a complaint.
 - i. Problem: Form not well designed for a request for reasonable accommodation

2. Section 3 (employment and contracting) issues also within FHEO
 - a. Form for filing Section 3 complaint form HUD 958
http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12049.pdf
 - ii. HUD Office of Public and Indian Housing
 1. For public housing and voucher issues
 - iii. HUD Office of Housing
 1. For multifamily developments, including project-based Section 8
 - iv. HUD Office of General Counsel
 1. For legal matters
 - f. Contact the HUD Office of Inspector General for claims of fraud
 - i. The Hotline takes reports of fraud, waste, abuse, or serious mismanagement in HUD or HUD-funded programs from HUD employees, contractors, and the public.
 - ii. 1-800-347-3735
 - g. Contact congressional representatives
 - i. Local Representative and/or Senators
 1. See NLIHC website for list of congressional leaders by state and zip code
<http://capwiz.com/nlihc/dbq/officials/>
 - ii. Consider contacting congressional representatives that sit on committees that oversee HUD or that provide funding for HUD programs.
 1. House of Representatives
 - a. Authorizing Committee: Insurance, Housing and Community Opportunity,
<http://financialservices.house.gov/Subcommittees/Issue/?IssueID=28421>
 - b. Appropriations Committee: Transportation, HUD, and Related Agencies
<http://appropriations.house.gov/About/Members/TransportationHUD.htm>
 2. Senate
 - a. Authorizing Committee Housing, Transportation and Community Development,
http://banking.senate.gov/public/index.cfm?Fuseaction=CommitteeInformation.Subcommittee&Subcommittee_ID=e08628bc-d809-46c9-99f1-5bb8bead82bc
 - b. Appropriations Committee: Transportation, Housing and Urban Development, and related Agencies,
<http://appropriations.senate.gov/sc-transportation.cfm>
5. Contact Local Legal Services or other legal assistance
 - a. For a partial listing of legal services offices go to <http://www.lsc.gov/map/index.php>
 - b. Contact local bar association for pro bono assistance

- c. Local law school may have a legal clinic
- 6. Contact a housing counselor at
http://portal.hud.gov/hudportal/HUD?src=/i_want_to/talk_to_a_housing_counselor or call (800) 569-4287 to find the closest housing counselor
 - a. Some but not all housing counselors provide rental housing counseling and may or may not be knowledgeable about public housing or Section 8; but they may also provide information about discrimination and reasonable accommodation
- 7. Resources
 - a. National organizations that may be able to help or provide information, for example
 - i. National Housing Law Project, website www.nhlp.org
 - ii. National Low Income Housing Coalition, website www.nlihc.org
 - iii. NAHT (National Alliance of HUD Tenants), website <http://saveourhomes.org/>
 - iv. National Peoples Action (NPA) website <http://www.npa-us.org/problem-solution/housing>
 - v. Western Regional Advocacy Project (WRAP) <http://www.wraphome.org/pages/home>
 - vi. Center for Budget Policy and Priorities (CBPP) www.cbpp.org
 - b. List other local and national sources
 - i. MassLegalHelp <http://www.masslegalhelp.org/housing>
 - ii. Boston Residents Training Institute (BRTI) <http://brtitraining.org/>
 - iii. Mass Union of Public Housing Tenants, <http://www.massunion.org/>
 - iv. Public Housing Association of Residents (PHAR) Charlottesville, VA <http://phar.typepad.com/>
 - v. Texas Tenants' Union, website <http://www.txtenants.org/>
 - vi. Tenants Together (California), website <http://tenantstogether.org/article.php?list=type&type=4>
 - c. OTHER?