

## Tenant Grievance Procedure

### 1. DEFINITIONS

- a. Complainant means an LMHA tenant whose grievance is submitted to LMHA.
- b. Grievance or complaint means any dispute a tenant may have with respect to LMHA action or failure to act in accordance with the tenant's lease or LMHA regulations, which adversely affect the tenant's rights, duties, welfare or status.

### 2. RIGHT TO A HEARING

Upon submitting a written complaint or grievance as defined in paragraph 1.b., above, and as further provided herein, a complainant shall be entitled to a hearing before the Hearing Panel. If the complainant is unable to submit a written complaint or grievance, LMHA will provide assistance upon request.

### 3. PROCEDURE TO REQUEST A HEARING

- a. Any grievance or complaint must be personally presented, in writing, to the LMHA Management Office of the development in which the complainant resides, so that the grievance may be discussed informally and settled without a hearing or to the LMHA Central Office. If presented to the LMHA Central Office, the Receptionist shall assist and date-stamp the grievance or complaint and place it in the Manager's mailbox. The grievance or complaint must be submitted within ten (10) calendar days of the LMHA action or failure to act, which is the basis for the grievance. The grievance or complaint may be simply stated, but it shall specify:
  - i. the particular ground(s) upon which it is based; and
  - ii. the action requested.

Complainant should retain a copy of the complaint and a copy should be filed with the development Property Manager. All written complaints must be date-stamped by LMHA at the time of receipt.

- b. Upon presentation of the grievance or complaint, the tenant's Property Manager or other staff person deemed appropriate by LMHA will hold a private, informal conference with the tenant. The tenant may bring a lawyer, friend, relative, advocate or other representative. The conference will be scheduled within ten (10) calendar days after the tenant presents the complaint or grievance.
- c. A summary of the conference will be prepared, dated and signed by the Property Manager or other staff person and delivered or mailed to the complainant within ten (10) calendar days. A copy of the summary shall be filed in the tenant's file. The summary shall specify:
  - i. the names of the participants and dates of meeting,
  - ii. the nature of the proposed disposition of the complaint and the specific reasons therefore; and
  - iii. the procedures by which a hearing may be obtained if the complainant is not satisfied.
- d. If the complainant is dissatisfied with the disposition of the complaint proposed by the Property Manager or other LMHA staff person, he/she may submit a written request to the management office or LMHA Central Office for a hearing.

This written request shall be made within ten (10) calendar days after the tenant receives a copy of the summary of the conference. The written request for a hearing must be date-stamped and filed in the appropriate management office or LMHA's Central Office along with the complaint and summary of the conference.

An appropriate LMHA official will promptly advise the Hearing Panel Secretary of the request. The Hearing Panel Secretary shall schedule the hearing. Hearings are generally scheduled on the first Thursday of each month. The Hearing Panel Secretary shall inform the parties, by letter, of the date, time and location of the hearing. If the hearing is cancelled by LMHA due to weather, strike, etc., the Secretary will make best efforts to notify the complainant(s) as soon as possible.

If the complainant is unable to attend the hearing as scheduled, complainant must give at least 24 hours notice to the Hearing Panel Secretary at 419-259-9414. The reason for rescheduling may involve conflicts with doctors' appointments, religious events, or any other protected activity under Fair Housing Law.

- e. If the complainant does not request a hearing within the time period allowed in Subsection d., above, he/she waives his/her right to a hearing, and the LMHA's proposed disposition of the grievance will become final.
- f. Attendance at the conference is a prerequisite to obtain a hearing. Failure to attend will be grounds for LMHA to deny the complainant a hearing. If complainant's conference conflicts with medical appointments, religious events, or any other protected activity under Fair Housing Law, then complainant must reschedule a conference with his/her Property Manager.
- g. If the dispute is over the amount of rent or other charges which the LMHA claims is due, the complainant shall pay an escrow deposit to LMHA in the amount of rent they were paying until a decision is made on the new rent or the disputed charges. Escrow deposits are only accepted at the Central Office, 435 Nebraska Avenue, Toledo, Ohio, 43604. After the first escrow deposit, the complainant must pay an escrow deposit in the same amount monthly until the complaint is resolved by decision of the Hearing Panel. If complainant fails to make an escrow deposit of rent, then LMHA may terminate the grievance procedure.

**NOTE:** LMHA must waive its right to require an escrow deposit of the rent due and payable if complainant is paying the minimum rent and the grievance is based on a request for a hardship exemption from minimum rent or complainant's welfare benefits were reduced. Hardship exemptions from minimum rent are:

- i. complainant lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;
- ii. complainant would be evicted because it is unable to pay the minimum rent;
- iii. the income of the complainant has decreased because of changed circumstances, including loss of employment; or
- iv. a death has occurred in complainant's family

- h. It is recommended that complainants escrow rent and all other charges for all types of hearing requests. Complainant must pay the disputed charges if the Hearing Panel rules against Complainant.
- i. As stated in LMHA's Admission & Continued Occupancy Policy, subsection VIII.B., there is no right to a hearing for lease terminations or evictions involving any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or LMHA employees; any violent or drug-related criminal activity on or off such premises; or, any criminal activity that resulted in a felony conviction of a household member.

#### 4. COMPOSITION AND SELECTION OF THE HEARING PANEL

- a. The Hearing Panel shall consist of five (5) members, two (2) selected by the Central Resident Council, two (2) appointed by the LMHA and one (1) impartial disinterested member chosen by LMHA and agreed to by the Central Resident Council. The Hearing Panel shall select one of its members to act as the presiding officer. As such officer, he/she shall be responsible for the order in which appeals are heard and for decorum.
- b. Persons who made or approved the action under review, or a subordinate of such person, may NOT serve on a Hearing Panel for that particular complaint or grievance.

#### 5. PROCEDURE AT THE HEARING

The following procedures shall apply:

- a. The hearing shall be held before a full Hearing Panel. A full Hearing Panel means that all five members are present for the hearing. At times there may be only three or four members are present. If so, complainant has the right to either reschedule the hearing so that he/she is in front of a full panel or accept the panel "as is" and proceed with the hearing.
- b. The hearing shall be conducted in a fair and impartial manner.
- c. Before the hearing, the complainant has a right to look at LMHA's documents and regulations, which are directly relevant to the hearing. The complainant may copy such documents at his/her expense. LMHA shall charge for the copies consistent with LMHA's public records request procedure. If LMHA does not allow complainant to see such documents, then LMHA may not rely on such documents for the hearing.
- d. The complainant has a right to be represented by a lawyer, friend, relative, advocate or other representative. They may make statements for complainant and on his/her behalf.
- e. The complainant has a right to a private hearing unless the complainant requests a public hearing.
- f. The complainant has a right to present evidence and arguments in support of his/her complaint and to controvert LMHA's evidence and to confront and cross-examine LMHA's witnesses.
- g. The Hearing Panel will make a decision based solely and exclusively on the facts presented at the hearing.
- h. If the complainant is 15 minutes late or fails to appear at the hearing, the Hearing Panel may make a determination to postpone the hearing to the next regularly scheduled date or that the complainant has waived his/her right to a hearing.

- i. At the hearing, the complainant must first make a showing of an entitlement to relief. After the complainant makes his/her showing, LMHA's management staff must sustain its burden of justifying its action or failure to act and may present evidence in support thereof.
- j. The Hearing Panel shall not be bound by any technical or judicial rules of evidence, but the proof offered shall be pertinent to the facts and issues raised in the complaint. The presiding officer may exclude repetitious or irrelevant evidence. The presiding officer's directions must be followed. Failure to obey directions may result in exclusion or an adverse decision.
- k. The parties have a reasonable right to confront and cross-examine witnesses, which shall be done in an orderly manner and the Members of the Hearing Panel may ask questions.
- l. LMHA's management staff shall present its reasons for the notice of termination and evidence in support thereof. At the conclusion of this presentation, the tenant or his representative shall have the right to make a statement or present witnesses, documents or other evidence. LMHA's Staff Attorney may represent management staff.
- m. The complainant has a right to have a court reporter present to record the hearing. However, it is complainant's responsibility to contact the court reporter and to pay the court reporter's attendance fee and fee for the transcript.
- n. LMHA shall provide reasonable accommodation for persons with disabilities to participate in the hearing. This may include qualified sign language interpreters, readers, accessible locations or attendants. If the complainant is visually impaired, his/her notice shall be in an accessible format.

#### 6. DECISION OF THE HEARING PANEL

At the conclusion of the hearing, or within the ten (10) calendar days, the Hearing Panel shall render a written decision with the reasons therefore, which decision shall be either to:

- a. affirm the action taken by management; or
- b. cancel such action; or
- c. otherwise make a decision pertinent to the review of the situation and the welfare of all parties involved; and
- d. written notification of the decision shall be given to the complainant, Property Manager, and Staff Attorney. Hearing Panel Secretary shall mail the written decisions to the Complainant.

LMHA shall keep and maintain a written record of the proceedings, which shall include among other things, all notices, exhibits and documents introduced in evidence, and a record of the final decision rendered.

If the decision is in LMHA's favor and if the action related to the termination of the tenant's lease, then after the notice of the decision has been mailed to the complainant, the Property Manager or his/her staff shall serve upon the tenant the applicable "Notice to Leave the Premises" notice. Decisions favorable to LMHA do not affect the complainant's other judicial rights.

The Staff Attorney shall review all decisions. If the Staff Attorney determines that a decision: a) does not concern LMHA action or failure to act regarding the lease or LMHA regulations, which adversely affect the complainant; or b) is contrary to Federal/State/local law, HUD regulations or LMHA's Annual Contributions Contract (ACC) with HUD, then the Staff Attorney shall forward such decision to the Board of Commissioners with a recommendation that the Hearing Panel's decision be of no force and effect. The Board of Commissioners shall review such decision and the Staff Attorney's

recommendation at its next regularly scheduled meeting. If the Board of Commissioners accepts the Staff Attorney's recommendation then the Board must determine that Hearing Panel decision is not binding on the LMHA.