

VIRGIN ISLANDS HOUSING AUTHORITY

Grievance Procedure



Section 1 – Purpose and Scope

The purpose of this Grievance Procedure is to set forth the requirements, standards and criteria for a grievance procedure to be established and implemented by the Virgin Islands Housing Authority to assure that Residents of the Housing Authority are afforded an opportunity for a hearing if the Resident disputes, within a reasonable time any Housing Authority action or failure to act involving the Resident's lease with the Housing Authority or Housing Authority regulations, which adversely affect the individual Resident's rights, duties or welfare or status. The grievance procedure shall be incorporated in the dwelling lease by reference.

This Grievance Procedure shall not discriminate against any person based on race, color, religion, national origin, familial status, sex or disability. HUD forms 903 and 903A are included in this Grievance Procedure Policy by reference and are available for distribution to applicants and Residents.

Section 2 – Applicability

The Grievance Procedure shall be applicable to all individual grievances between the Resident and the Housing Authority.

The Grievance Procedure shall not be applicable to disputes between Residents not involving the Virgin Islands Housing Authority 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 Residents and the Housing Authority's Board of Commissioners.

Section 3 – Definitions

For the purpose of the Grievance Procedure, the following definitions are applicable:

- (A) **“Grievance”** shall mean any dispute which a Resident may have with respect to the Virgin Islands Housing Authority's action or failure to act in accordance with the individual Resident's rights, duties, welfare or status.
- (B) **“Complainant”** shall mean any Resident whose grievance is presented to the V. I. Housing Authority's Central Offices located at #402 Estate Anna's Retreat, P. O. Box 7668, St. Thomas, V.I. 00801-7668 and #5 Upper Bethlehem, P. O. Box 1349, Kingshill, St. Croix, 00851-1349 (Attention: Management Supervisor) or at the Housing Management office in accordance with Section 4 and Section 5 of this procedure.
- (C) **“Hearing Officer”** shall mean an impartial or disinterested person selected jointly by the Housing Authority and the Complainant.
- (D) **“Resident”** shall mean any lessee or the remaining head of any Resident family residing in housing accommodations covered by this procedure.

Section 4 – Informal Settlement of Grievance

Any grievance shall be presented in writing within seven (7) days after receipt of the Notice of Termination, to the Authority's office in the community in which the Complainant resides so that grievance may be discussed informally and possibly settled without a hearing. At the conclusion of the Informal Conference, a summary of such

**Virgin Islands Housing Authority
Grievance Procedures**

discussion shall be prepared within ten (10) business days and one (1) copy shall be hand delivered, or mailed to the resident by Certified Mail and one (1) copy retained in the Authority's Resident file. The summary shall specify the names of the participants, dates of meetings, the nature of the proposed disposition of the complaint and the specific reason therefore and shall specify the procedures by which a hearing under Section 5 may be obtained if the Complainant is not satisfied. Assistance will be provided for Residents with a disability.

Section 5 – Procedure to Obtain a Hearing

If the grievance is unable to be resolved at the Informal Conference, the Complainant shall submit a written request by hand delivery or Certified Mail to the Housing Authority's Management Division or to the Community Office within five (5) business days after receipt of the Summary of Discussion pursuant to Section 4 above. The written request shall specify the reasons for the grievance and the action or relief sought.

Section 6 – Selection of a Hearing Officer

All timely grievances under this procedure shall be presented before a Hearing Officer. The Hearing Officer shall be selected from a list of at least three (3) impartial, disinterested persons willing to serve as Hearing Officer. The Authority and Complainant shall jointly select the hearing officer from the list.

If the Authority and the Complainant cannot agree on a third member, such member shall be appointed by an independent arbitration organization, such as the American Mediation Institute, or by any other third party agreed upon by the Authority and the Complainant.

Section 7 – Failure to Request a Hearing

If the Complainant does not request a hearing or fails to make a timely request for a hearing in accordance with Section 5 above, then the Authority's disposition of the grievance under Section 4 shall become final, provided however, that failure to request a hearing shall not constitute a waiver by the Complainant of his/her right thereafter to contest the Authority's action on disposing of the complaint in an appropriate judicial proceeding.

Section 8 – Hearing Prerequisite

All grievances shall be presented in writing pursuant to the procedure prescribed in Section 5 as a condition precedent to a hearing under this section, provided however that if the Complainant shall show good cause to the Authority why he failed to proceed in accordance with Section 5, the provisions of this Section may be waived by the Authority. Assistance will be provided to Residents with a disability.

The Virgin Islands Housing Authority does not discriminate based on race, color, sex, age, national origin, religion, family status nor disability. If you believe that you have been discriminated against, you may call **Fair Housing and Equal Opportunity National Hotline Toll-Free at 1-800-424-8590**. In accordance with 24 CFR part 966 and HUD Handbook 7465.11, Revision 2, HUD Form 93 (Housing Discrimination Complaint Form) is attached to the Grievance Procedure Policy and hereby becomes a permanent part of the Virgin Islands Housing Authority's grievance procedures.

Section 9 – Escrow Deposit

Within ten (10) business days after the filing of a Grievance, the Complainant, in any grievance involving the amount of rent as defined in the lease which the Authority claims is due, shall pay the Authority an amount equal to the amount of the rent due and payable as of the filing of the grievance. The Complainant shall thereafter deposit the amount of monthly rent in an escrow account monthly until the complaint is resolved by decision of the Hearing Officer or at the Informal Conference. These requirements may be waived by the Authority in extenuating circumstances upon written request of the Complainant outlining the extenuating circumstances. Unless so waived, the failure to pay the rent due

**Virgin Islands Housing Authority
Grievance Procedures**

or to place the rent due in an escrow deposit account within ten (10) business days of the filing of the grievance, shall result in a termination of the Grievance Procedure. Provided, however, that failure to make payment shall not constitute a waiver of any right the Complainant may have to contest the Authority's disposition of his grievance in any appropriate judicial proceeding.

Section 10 – Schedule of Hearings

Upon Complainant's compliance with Section 5, Section 8 and Section 9 of this procedure, a hearing shall be promptly scheduled for a time and place reasonably convenient to both the Complainant and the Authority. A written notification specifying time, place and procedures governing the hearing shall be delivered to the Complainant and the appropriate Authority individual(s).

Section 11 – Hearing

- (A) The hearing shall be held before the Hearing Officer.
- (B) The Complainant shall be afforded a fair hearing provided the basic safeguards of due process which shall include:
 - 1. The opportunity to examine before the hearing and, at the expense of the Complainant, to copy all documents, records and regulations of the Authority that are relevant to the hearing. Any document not made available after request by the Complainant may not be relied on by the Authority at the hearing;
 - 2. The right to be represented by counsel or other person chosen as his or her representative;
 - 3. The right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by the Authority or project management, and to confront and cross-examine all witnesses on whose testimony or information the Authority project management relies; and
 - 4. A decision based solely and exclusively upon the facts presented at the hearing.
- (C) The Hearing Officer may render a decision without proceeding with hearing if the hearing officer determines that the issue has been previously decided in another hearing.
- (D) If the Complainant or the Authority fails to appear at the scheduled hearing, the Hearing Officer may make a determination as follows:
 - (1) to postpone the hearing for not to exceed five (5) business days; or
 - (2) that the Complainant has waived his right to a hearing.

A determination by the Hearing Officer that complainant waived his/her right to a hearing by failing to appear shall not constitute a waiver of any-right the Complainant may have to contest the Authority's disposition of the grievance in an appropriate judicial proceeding.

- (E) At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and thereafter the Authority must sustain the burden of justifying the Authority's action or failure to act against which the complaint is directed.

**Virgin Islands Housing Authority
Grievance Procedures**

- (F) The hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer shall require the Authority, the Complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.
- (G) The Complainant or the Authority may arrange, in advance and at the expense of the party making the request, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

Section 12 – Decision of the Hearing Officer

- (A) The Hearing Officer shall prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing. A copy of the decision shall be sent to the Complainant and the Authority. The Authority shall retain a copy of the decision in the tenant's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the Authority and made available for inspection by a prospective Complainant, his representative or the Hearing Officer.
- (B) The decision of the hearing officer shall be binding on the Authority which shall take all actions, or refrain from any actions, necessary to carry out the decision, unless the Authority's Board of Commissioners determines within a reasonable time, and promptly notifies the Complainant of its determination that;

The decision of the Hearing Officer is contrary to applicable Federal and/or Local law, HUD regulations and requirements of the Annual Contributions Contract between the Department of Housing and Urban Development and the Housing Authority;

- (C) A decision by the Hearing Officer, or Board of Commissioners, in favor of the Authority or which denies the relief requested by the Complainant in whole or in part shall not constitute the waiver or, nor affect in any manner whatever, any rights the Complainant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the manner.

Section 13 – Eviction Action

If a Resident has requested a hearing in accordance with Section 5 on a complaint involving the Authority's notice of termination of the tenancy and the Hearing Officer upholds the Authority's action to terminate the tenancy, the Authority shall not commence an eviction action in a Federal or local court until it serves a notice to vacate on the Resident, and in no event shall the notice to vacate be issued prior to the decision of the Hearing Officer having been mailed or hand delivered to the Complainant. Such notice to vacate must be in writing and specify that if the tenant fails to quit the premises within the applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate action will be brought against him and he may be required to pay court costs and attorney fees.

**Virgin Islands Housing Authority
Grievance Procedures**

Head of Household

Date

Co-Head of Household

Date