

***NEZ PERCE TRIBAL
HOUSING AUTHORITY***

GRIEVANCE POLICY

PURPOSE: To assist in the resolution of complaints by NPTHA program applicants and tenants and to afford program applicants and tenants a fair and reasonable opportunity to have their responses heard and considered by NPTHA. It is not intended to provide a forum for the aggrieved party to challenge NPTHA's policies, tribal, federal or state codes, requirements and/or regulations, to settle domestic disputes, or to resolve matters which are more appropriately a police or court matter.

- SCOPE:**
1. Applies to all program applicants and rental and homebuyer tenants, also referred to as participants.
 2. Grievances regarding actions for which a court hearing is necessary to carry out NPTHA action (such as eviction or termination of tenancy) are **NOT** subject to the Grievance Policy because the Nez Perce Tribal Court will afford claimants an opportunity to be heard on the merits of their particular case.
 3. This grievance process does not apply to NPTHA employees except as they may file a grievance as a participant, nor does it apply to vendors or contractors.

POLICY:

1.01 Definitions

- A. A *complainant* is any tenant who has presented a grievance to the NPTHA in accordance with these grievance procedures.
- B. A *grievance hearing* is the process by which the Board of Commissioners hears an appeal by a complainant dissatisfied with the Executive Director's decision.
- C. A *grievance* is any dispute which a tenant may have with respect to NPTHA action which adversely affects the individual tenant's rights, duties, welfare, or status.
- D. An *informal hearing* is the process by which complaints are first considered by the appropriate NPTHA staff.

- E. A *tenant* is a lessee or the remaining head of household of any tenant family residing in housing accommodations owned or leased by the NPTHA.

1.02 Due Process

The NPTHA Grievance Policy shall comply with the Indian Civil Rights Act, if applicable, and shall assure that applicants/residents in all programs/developments will

- be advised of the specific grounds of any proposed adverse action by NPTHA;
- have an opportunity for an informal hearing and afterwards, if warranted, a hearing before the Board of Commissioners upon timely request as outlined in these policies and procedures;
- have an opportunity to examine any documents or records or regulations related to the proposed action;
- be entitled to be represented by another person of their choice at any hearing;
- be entitled to ask questions of witnesses and have others make statements on their behalf; and
- be entitled to receive a written decision by NPTHA on the proposed action.

1.03 Filing Complaints

- A. Complaints pertaining to neighbors who are NPTHA residents must be made in writing utilizing the NPTHA Complaint form (Exhibit A). Assistance in writing the complaint will be made available to the resident at the resident's request.
- B. All complaints pertaining to NPTHA action are to be presented **first** on an informal basis, either orally or in writing, to the appropriate NPTHA staff within 10 working days from the date of the action. If the complaint remains unresolved, the complainant must request an informal hearing with the Executive Director.
- C. Before filing a complaint with the Executive Director, the complainant should review the program agreement he/she has with the NPTHA to assure that he/she has a valid complaint.
- D. Regardless of the nature of the complaint, all payments due NPTHA are to be paid

as agreed upon per the lease agreement or any promissory note or other repayment plan in the amount equal to the amount paid in the month preceding the complaint plus any fees.

1.04 Informal Hearing

- A. Complainants dissatisfied with the appropriate staff's decision may request an informal hearing with the Executive Director within **10** working days of the appropriate staff's decision. See Exhibit B as a guide for submitting a grievance.
- B. The request for an informal hearing with the Executive Director may be submitted orally or in writing but must contain at least the following information:
 - 1. Date of action disputed
 - 2. Action taken that is being disputed
 - 3. Reason for dispute or other justification and relief sought
- C. The Executive Director will schedule a meeting with the complainant as soon as it is possible, time and place reasonably convenient to the complainant, and will notify the complainant in writing.
- D. If the complainant fails to show up for the scheduled meeting without notification, the right to a hearing through NPTHA Grievance Policies will be waived, and the complainant shall be so notified in writing. However, this does not constitute a waiver of the complainant's right to contest NPTHA's decision through legal proceedings in the Tribal Court.
- E. The Executive Director will attempt to consider all the facts associated with the complaint in order to discuss and, hopefully, resolve the complaint without the necessity of a formal hearing. The Executive Director and complainant shall make every effort to attempt to resolve a grievance prior to the complainant requesting a grievance hearing.
- F. A written summary of the discussion and the Executive Director's decision will be sent to the complainant within 10 working days of the date of the informal hearing. The summary will include names of participants, date of the meeting, nature of the complaint, the Executive Director's decision and the basis of the decision, and the procedures by which a formal hearing can be obtained.

1.05 Request for a Grievance Hearing

- A. If the complainant is not satisfied with the decision of the Executive Director or does not receive a decision from the Executive Director, he/she may submit a written request to the Executive Director requesting a grievance hearing before the NPTHA Board of Commissioners. This request shall be submitted within 10 working days from the date of the Executive Director's written decision or if a decision was not rendered, 10 working days from the date the decision was required to be rendered.
- B. The complainant's written request shall be considered a notice of appeal, and it must specify the following information:
 - 1. The action taken that is being disputed;
 - 2. The reason or justification for the grieving the action and any other information you would like the NPTHA to take into consideration regarding the action.
 - 3. The action or relief sought;
- C. If the complainant's request for a formal hearing is **not** in accordance with **Item 1.05 B**, the Executive Director or designee will attempt to assist the complainant with the proper procedures.
- D. If the complainant does not request a hearing within 10 working days as required above, the complainant waives his/her right to a hearing and the NPTHA's proposed disposition of the grievance shall become final.
- E. The Executive Director will send written confirmation of the date, time and place of the Board of Commissioners meeting in which the grievance will be heard.
- F. The Executive Director will notify the Board of Commissioners of the request and provide copies of materials relevant to the appeal.

1.06 Procedures Governing the Grievance Hearing

- A. The grievance hearing shall be held before the Board of Commissioners, who will act as the hearing panel.
- B. The Chairman of the Board of Commissioners will preside over the hearing and ensure that rules of procedure are followed.

- C. Review by the Board will consist of a review of all the facts presented and the procedures of NPTHA to ensure the protection of tenant rights and compliance with applicable rules and regulations.
- D. The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include
 - 1. The opportunity to examine before the hearing all documents used by the NPTHA in its original decision;
 - 2. The right to be represented by counsel or other person chosen as his/her representative;
 - 3. The right to present evidence and arguments in support of his/her complaint, to refute evidence relied on by NPTHA, and to confront and cross-examine all witnesses; and
 - 4. A decision based solely and exclusively upon the facts *presented at the hearing*.
- E. The Board of Commissioners may render a decision without proceeding with the grievance hearing if the Board determines that the issue has been previously decided in another proceeding or if the complaint pertains to issues not within the control of NPTHA (i.e., regulations, statutes, etc.).
- F. If the complainant fails to appear at the grievance hearing, the Hearing Panel may dismiss the grievance, proceed without the complainant or reschedule the hearing one time if the complainant has provided a valid reason for failing to appear.
- G. At the hearing, the complainant must state the complaint and make a showing of an entitlement to the relief sought.
- H. NPTHA must demonstrate that NPTHA action is justified and is in accordance with NPTHA procedures.
- I. The hearing shall be conducted informally by the Chairman of Board 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.

1.07 Decision of the Board of Commissioners

- A. After consideration of all the facts, the Board of Commissioners will render a decision within **30** calendar days of the date of the formal hearing.
- B. The Executive Director will prepare a letter for the Chairman's signature,

- communicating the decision of the Board to the complainant and to NPTHA staff.
- C. Depending on the nature and extent of the complaint, the written decision may include a statement of findings and conclusions, the basis for the decision, etc.
 - D. NPTHA shall retain a copy of the decision in the tenant's folder along with all relevant information.

1.08 Disclaimer

- A. The NPTHA Grievance Policy and Procedures and any decisions made by NPTHA and/or the Board of Commissioners shall not constitute a waiver of, nor affect in any manner whatever, any rights the complainant may have to a trial de novo or judicial review in any Tribal judicial proceedings, which may thereafter be brought in the matter.
- B. Use of the NPTHA Grievance Policies and Procedures does not prohibit NPTHA from commencing legal eviction proceedings and/or from taking action at any time to protect its legal rights and interests.