

PUBLIC HOUSING TENANT RIGHTS:

THE PUBLIC HOUSING GRIEVANCE PROCESS

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Revised 5/12/2006

What is the Grievance Procedure?

The Grievance Procedure applies to tenants of public housing operated by the Housing and Community Development Corporation of Hawaii (HCDCH). The Grievance Procedure was created to give tenants the chance to challenge something HCDCH either does or fails to do which violates your rights as a public housing tenant.

What cases can be handled under the Grievance Procedure?

Most disputes with HCDCH can be handled under the Grievance Procedure. For example, tenants can use the Grievance Procedure if they believe they have been wrongly accused of violating their lease or if they have been charged an incorrect amount of rent. However, the Grievance Procedure cannot be used in the following cases:

- A dispute between tenants which does not involve HCDCH.
- A class grievance, or a grievance made by one person on behalf of himself and other people; each tenant must file their own grievance.
- Any complaint involving the termination of your rental agreement because you created a threat to the health and safety of other tenants or HCDCH employees.
- Any attempt to change policy between tenants and HCDCH.

If your dispute cannot be resolved under the Grievance Procedure, or is not resolved to your satisfaction, you may have the right to file a lawsuit. However, lawsuits are much more time-consuming and costly, and it may be difficult to find an attorney who will be able to take your case.

Does the Grievance Procedure have to be started within a certain period of time?

Yes. **You must begin the Grievance Procedure within 10 business days after HCDCH commits the violation.** For example, if you are charged for a repair that you do not believe you are responsible for, you must dispute the charge within 10 business days of receiving the repair bill. Also, if HCDCH accuses you of violating your rental agreement and threatens to terminate your lease or evict you, to contest the eviction you should start the Grievance Procedure within 10 business days of receiving notice of the alleged lease violation.

If you don't start the Grievance Procedure within the 10 business day time period, HCDCH is not obligated to give you a Grievance Hearing. However, even if you miss the deadline, you should still ask for a Grievance Hearing because HCDCH may still let you have one.

How do I use the Grievance Procedure?

To use the Grievance Procedure, you must take the following steps:

- 1) **Ask for an informal settlement meeting with your property manager within 10 business days of the alleged violation.** You should request an informal settlement meeting in writing by personally delivering a letter to the project office (you can request the meeting

verbally, but you may have difficulty proving you made the request if you do not do so in writing). *A form letter is attached at the end of this brochure for your use (entitled “Request for Informal Settlement Meeting”).* You will need to fill in a description of your problem and how you would like the problem to be resolved. *Make sure to keep a copy of all letters you provide to the project office.*

- 2) **Attend the informal settlement meeting.** You may be able to resolve your dispute by meeting with the project manager. Attend the meeting regardless of whether you think you will be able to resolve the problem. If you do not attend the meeting, you may not be able to proceed with the grievance process.
- 3) **Wait to receive the written summary of the settlement meeting discussion from your project manager.** Within 5 business days of the meeting, you should receive a summary of what you discussed with your project manager. The summary must tell you, among other things, what proposed solution to the problem (if any) was reached at the meeting and why. It must also tell you exactly what you need to do to ask for a Grievance Hearing if you are not happy with the results of the informal settlement. *If you do not receive a written summary of the settlement meeting within 5 business days, follow up with the project office.*
- 4) **Request a Grievance Hearing within 10 business days after receiving the written summary of the settlement meeting discussion.** If your problem was not resolved at the informal settlement, you will need to request a Grievance Hearing. To get a Grievance Hearing, you must submit a written request to your project office within 10 business days of receiving the summary of the informal settlement meeting. *A form request is attached at the end of this brochure for your use (entitled “Request for Grievance Hearing”).*

The written request must say:

- Exactly why you want a Grievance Hearing (for example, “I was charged to repair a toilet that I did not break”).
- Exactly what kind of “relief” you want. This means that you must explain what you want HCDCH to do if you win the Grievance Hearing (for example, “I want the charge to repair my toilet removed from my bill”).

IMPORTANT: If your written request does not state both of these things, the solution proposed at the informal settlement will become final and you will not receive a Grievance Hearing.

Make sure that you keep a copy of your request for a Grievance Hearing.

- 5) **If your dispute involves the amount of *rent* you owe, you may need to make a deposit to an escrow account at the same time you request the Grievance Hearing.** An “escrow account” for the purposes of the Grievance Procedure is an account where money in dispute is held pending the resolution of the dispute. Once the dispute over the money is resolved, the money will be paid to whoever wins the dispute. Under HCDCH rules, you need to pay the money to HCDCH, who will then be required to put the money into an escrow account.

You should only be required to deposit into escrow an amount equal to your monthly rent the month before the subject of your grievance took place. In other words, you simply need to pay your normal rent—the rent you were paying before the dispute arose.

An escrow account is only required where the amount of *rent* you are supposed to pay is in dispute. If your grievance does not involve the amount of rent you owe HCDCH, then you should not be required to put money into an escrow account. For example, you should not be required to use an escrow account where you are disputing an allegation that you violated the house rules or where you are disputing a maintenance charge.

The “Request for Grievance Hearing” form attached at the end of this brochure contains a section on escrow deposits that will help you determine whether you need to pay money into an escrow account, and if so, how much. If you are required to deposit money into an escrow account, it is recommended that you contact Legal Aid for assistance. You should also review Legal Aid’s brochure “Public Housing Tenant Rights: The Escrow Deposit Requirement” for more information.

IMPORTANT: If you must make an escrow account deposit, make sure to write “for deposit in escrow account” on your cashier’s check or money order so that it is clear that the money should be placed in escrow.

Note: *If you are disputing the amount of money you owe to HCDCH, it is a good idea to set aside or save that money so that it is available to pay the amount you owe HCDCH should you lose your grievance.*

- 6) **Prepare for your Grievance Hearing.** After you have submitted your request for a Grievance Hearing, you should prepare your case for the hearing. This means collecting evidence, finding witnesses, and getting ready to argue your case. You should review Legal Aid’s brochure “How to Represent Yourself” for more information on preparing for your hearing. It is also recommended that you contact Legal Aid to see whether you qualify for additional assistance.

Note: *You should prepare for your Grievance Hearing as quickly as possible so that you will be ready to argue your case once your hearing is scheduled.*

- 7) **Wait for your Grievance Hearing to be scheduled.** After you have prepared for your Grievance Hearing, you simply need to wait for the hearing to be scheduled. HCDCH will need to select an impartial hearings officer to hear the grievance. The hearings officer must then promptly schedule your Grievance Hearing. If your Grievance Hearing is not scheduled within 45 days of your hearing request, you should contact Legal Aid for assistance.
- 8) **Attend your Grievance Hearing.** Once your hearing is scheduled, you will receive a written notice specifying the time, place, and rules of the Grievance Hearing. At the Grievance Hearing, you will need to present your case as you prepared it in Step #6. Again, you should review Legal Aid’s brochure “How to Represent Yourself” for additional information.

What happens if I miss the Grievance Hearing?

If either you or an HCDCH representative fails to appear at the Grievance Hearing, the Hearing Officer can rule that the party that failed to appear has given up their right to a Grievance Hearing. The side that showed up would automatically win the dispute. To avoid this possibility of losing your grievance, make sure you show up, and show up on time.

What are the rules for the Grievance Hearing?

The rules for the Grievance Hearing are meant to protect your right to due process, which means the rules make sure that your hearing is fair and give you a chance to defend yourself. You have the following rights before and during the Grievance Hearing:

- **Examine Your File:** You have the right to look at your project file before the Grievance Hearing and, at your own expense, copy all documents, records, and rules of HCDCH that involve your grievance. If HCDCH doesn't let you see and copy a document, they cannot use that document against you at the Grievance Hearing.
- **Be Represented:** You can have a lawyer, paralegal, or anyone else you choose represent you at the Grievance Hearing.
- **Private Hearing:** You are entitled to a private Grievance Hearing, unless you want it to be made open to the public.
- **Present Evidence and Arguments:** You have the right to present evidence and arguments in support of your case, to dispute any evidence presented by HCDCH, and to confront and cross-examine all witnesses who testify for HCDCH.
- **Decision on the Facts:** You have the right to have the Hearing Officer make a decision based completely and solely on the facts presented at the Grievance Hearing.

Although these rules always apply, the Grievance Hearing is meant to be informal. This means that the language and procedures used are more relaxed than in a normal courtroom. It also means that the rules of evidence do not apply. If either the HCDCH representative or the Hearing Officer challenges you about your use of a particular piece of evidence, you should argue that the evidence is acceptable because the Grievance Hearing does not strictly follow the rules of evidence.

IMPORTANT: You must remember that even though the Grievance Hearing is less formal than a normal courtroom hearing, people in attendance must still behave in an orderly and respectful manner. For example, if HCDCH or one of its witnesses says something you disagree with, you can object to it, but you must do so in a calm and collected manner. If either you or the HCDCH representative refuses to behave in an orderly and respectful manner, the other side may automatically win the Grievance Hearing.

Note: You may arrange, at your own expense, to have a written transcript of the Grievance Hearing made. You can also ask for a copy of the tape recording of the Grievance Hearing.

What do I have to do to win the Grievance Hearing?

To win at the Grievance Hearing, you must be able to show that you are entitled to whatever relief you asked for in your grievance. For example, if you are claiming that HCDCH needs to fix a leak in your bathtub, you must show that the bathtub actually has a leak, either through testimony or physical evidence, such as pictures.

If you are able to show that you have the right to the relief you asked for, HCDCH must defend the action, the lack of action, or the rule which your grievance is about by showing that they have a justifiable excuse.

The Hearing Officer may issue a decision about your grievance without holding the Grievance Hearing if the Hearing Officer believes your grievance has already been decided by some other proceeding.

What do I need to know about the decision of the Hearings Officer?

Within a reasonable time after the Grievance Hearing, the Hearing Officer must prepare a written decision that tells you the reasons for the decision. A copy of the decision must be sent to both you and HCDCH.

If your Grievance Hearing involved a proposed termination of your tenancy and the Hearing Officer ruled in favor of HCDCH, you do not have to leave the premises until after you go through the eviction process.

Under the eviction process, you will receive a written notice that should inform you that HCDCH will begin eviction proceedings against you if you don't leave the premises within the amount of time specified. If you don't move out by the date noted in the eviction notice, HCDCH must provide you with a formal eviction board hearing. HCDCH cannot evict you until after this Eviction Hearing. For more information about the eviction process, you should refer to Legal Aid's brochure entitled "Public Housing Eviction Process."

Note: Even if the Hearing Officer decides that HCDCH wins the Grievance Hearing, you can still appeal the decision. Contact the **Legal Aid Society of Hawai'i** for further assistance.

For More Information Or Assistance Call The Legal Aid Office In Your Community:

O`AHU:		536-4302	KAUA`I:	245-7580
BIG ISLAND:	Hilo	934-0678	LANA`I:	565-6089
	Kona	329-8331	MOLOKA`I:	553-3251
MAUI:		242-0724		

On the web at <http://www.legalaidhawaii.org>

REMEMBER: This pamphlet is meant to give you general information and not to give you specific legal advice about your case. The law often changes. Each case is different. This brochure is NOT meant in any way to replace the rules of HCDCH found in the Hawaii Administrative Rules. For a full understanding of the grievance process, you should see the Hawaii Administrative Rules and the Grievance Procedure handout that is available from your HCDCH manager.

Request for Informal Settlement Meeting

Dear Project Manager:

I am writing in hopes of resolving an issue pertaining to my housing and to notify you that I am invoking the grievance procedure. I would like to schedule an informal settlement meeting to discuss this issue with you.

I dispute the following action taken by the Housing and Community Development Corporation of Hawaii, its agents and/or successors:

I would like to propose the following solution:

Thank you for your attention to this matter.

Sincerely,

Signature: _____

Name: _____

Address: _____

Phone #: _____

Request for Grievance Hearing

Dear Project Manager:

I am writing to request a grievance hearing. I dispute the following action taken by the Housing and Community Development Corporation of Hawaii, its agents and/or successors:

I am seeking the following action or relief:

Escrow Deposit (check one)

- I do not believe an escrow deposit is required in this situation because my grievance does not involve the amount of rent I owe. If you believe otherwise, please notify me in writing as soon as possible as to the requirement and the amount.

- Attached is a money order or cashier's check for \$_____ to be deposited by HCDCH in an escrow account pending the outcome of my grievance hearing.

- I do not know whether I am required to make an escrow deposit or not. If I am required to make an escrow deposit and you will not agree to waive the requirement, please notify me in writing as soon as possible as to the amount I must provide to be put into escrow.

Signature: _____

Name: _____

Address: _____

Phone #: _____