

KARUK TRIBE HOUSING AUTHORITY
CHAPTER 12
GRIEVANCE PROCEDURE

CHAPTER 1 RIGHT TO A HEARING

Upon filing a written request as provided herein, a complainant shall be entitled to a hearing before the Hearing Officer.

CHAPTER 2 DEFINITIONS

- a) Complainant: Any participant or tenant in KTHA Housing Projects, whose rights, duties, welfare or status are, or may be adversely affected by the Authority action or failure to act, and who files a grievance or complaint after first attempting to resolve the complaint informally with the Authority.
- b) Grievance/Complaint: Any dispute with respect to KTHA action or failure to act in accordance with MHOA or Lease requirements or KTHA regulations, policies, or procedure which affects the rights, duties, welfare or status of the complainant.

CHAPTER 3 PROCEDURE PRIOR TO A HEARING

- a) Any grievance shall be personally presented in writing to the KTHA office, so that the grievance may be informally discussed and settled without a hearing. The grievance must be signed by the complainant and filed in the Authority office within ten (10) working days of the Authority's action or failure to act, which is the basis of the grievance.
- b) The Complainant and the Authority will attempt to resolve the problems at the time the complainant is presented to the Authority.
- c) Within three (3) working days, the Authority will send a letter to the complainant summarizing the discussion. The summary shall specify the names of the participants in the discussion, the date of the discussion, the proposed disposition of the complainant and the reasons therefore. The letter must advise the complainant of his/her right to a hearing and the procedure by which such a hearing may be obtained.

CHAPTER 4 PROCEDURE TO OBTAIN A HEARING

- a) Request for a Hearing

The complainant shall submit a written request for a hearing to the Authority within ten (10) working days after receipt of the summary of the informal discussion and decision of the Authority and the reasons therefore.

- 1) The written request shall specify:
 - I) The reasons for the grievance; and
 - II) The action of relief sought.

CHAPTER 5 SELECTION OF A HEARING OFFICER

Grievances shall be presented before a Hearing Officer selected as follows:

- a) The Hearing Officer shall be an impartial, disinterested person selected jointly by the Authority and the complainant. If the Authority and the complainant cannot agree on a Hearing Officer, they shall each appoint a member of a Hearing Panel, and the two members of the Hearing Panel shall select a third member. The three members shall decide among themselves who shall be the chairman of the Panel.
- b) No family member or close relative of the complainant, nor any Authority officer or employee, shall sit as the Hearing Officer or as a member on the Hearing Panel.

CHAPTER 6 HEARING PREREQUISITE

- a) All grievances shall be personally presented pursuant to the informal procedure as a condition to a hearing under this section.

CHAPTER 7 THE HEARING

- a) The hearing shall be held before a Hearing Officer (or Hearing Panel, as appropriate).
- 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 therefore by the complainant may not be relied upon by the Authority at the hearing;
 - 2) The right to be represented by counsel or other person chosen as his/her representative;
 - 3) The right to a private hearing unless the complainant requests a public hearing;
 - 4) The right to present evidence and arguments in support of his/her complaint, to controvert evidence relied upon by the Authority and to confront and cross-examine all witnesses on whose testimony the Authority relies; and
 - 5) A decision based solely and exclusively upon the facts presented at the hearing.
- c) The Hearing Officer (or Hearing Panel) may render a decision without proceeding with the hearing if the Hearing Officer (or Hearing Panel) determined that the issue has been previously decided in another proceeding.
- d) If the complainant or the Authority fails to appear at a scheduled hearing, the Hearing Officer (or Hearing Panel) may make a determination to postpone the hearing for a period not to exceed five (5) business days or may make a determination that the party

has waived his/her right to a hearing. Both the complainant and the Authority shall be notified of such determination. Such determination 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 entitlement to the relief sought and thereafter the Authority must sustain the burden of justifying the Authority action or failure to act against which the complainant is directed.
- f) The hearing shall be conducted informally by the Hearing Officer (or Hearing Panel) and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to whether that evidence would be admissible under the rules of evidence employed in Judicial proceedings.

CHAPTER 8 DECISION OF HEARING OFFICER (OR HEARING PANEL)

- a) The decision of the Hearing Officer (or Hearing Panel) shall be based solely and exclusively on facts presented at the hearing and applicable State and Tribal laws, HUD regulations, and requirements of Annual Contributions Contract between HUD and the Authority.
- b) The Hearing Officer (or Hearing Panel) shall prepare a written decision together with the reasons therefore within ten (10) working days after the hearing. A copy of the decision shall be sent to the complainant and to the Authority. The Authority shall retain a copy in the participants or tenants file.
- c) The decision of the Hearing Officer (or Hearing Panel) shall be binding on the Authority, which shall take all actions or refrain from any actions necessary to carry out the decision unless the Housing Committee determines within a reasonable time, and promptly notify the complainant of its determination, that:
 - 1) The grievance does not concern Authority action or failure to act in accordance with or involving the complainant's MHOA or Lease or Authority regulations, which adversely affect the Complainant's right, duties, welfare status.
 - 2) The decision of the Hearing Officer (or Hearing Panel) is contrary to Local Law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the Authority.

CHAPTER 9 APPEALS FROM THE HEARING OFFICER (OR HEARING PANEL) DECISION

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

The following are proposed changes to correct inconsistencies in the policies of the Karuk Tribe Housing Authority submitted for resident input on February 12, 1993.

LEASE DOCUMENT

5. Redetermination of Rent, Unit Size and Eligibility

- a) Tenant shall report the following to KTHA within fifteen (15) days of their occurrence:
 - 1) Any change in the household members; and
 - 2) Any increase or decrease in income.

13. Termination of Lease

- f) The Notice of Termination shall state the reason for the termination and shall invite the Tenant to a hearing before the Housing Committee.

GRIEVANCE PROCEDURE

2. Definitions

- b) Except as noted below, GRIEVANCE OR COMPLAINT is any dispute with respect to KTHA action or failure to act in accordance with Lease or Mutual Help and Occupancy Agreement requirements or KTHA regulations, policies, or procedures which affect the rights, duties, welfare or status of the complainant.
 - 1) Specifically excluded from this grievance procedure is any grievance concerning eviction or termination of tenancy. Eviction or termination of tenancy requires, before eviction, a tenant be given a hearing before the Housing Committee. The hearing must contain the following elements of due process:
 - I) adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
 - II) opportunity for the tenant to examine all relevant documents and KTHA regulations prior to the hearing for the purpose of preparing a defense;
 - III) right of the tenant to be represented by individual of their choice;
 - IV) opportunity for the tenant to refute the evidence presented by KTHA, and
 - V) a decision by the Housing Committee on the merits of the case as presented.
 - VI) The decision of the Housing Committee is final and will proceed in the Siskiyou County Judicial Court if necessary.

Revised This _____ Day of **March, 2000**.

Charlene Martin, Secretary