

WALKER RIVER HOUSING DEPARTMENT

GRIEVANCE POLICY

The Grievance Policy for the Walker River Paiute Housing Department was developed by the Director and Staff, and reviewed by the Housing Department's attorney. It was subsequently adopted by the Walker River Paiute Tribal Council by Resolution #WR-38-2016 and goes into effect on April 25, 2016.

This policy supersedes and replaces all prior Walker River Paiute Tribe Housing Department Grievance Policies and Procedures.

I. INTRODUCTION

A. Purpose

The purpose of this Policy is to provide procedures that establish a process to resolve tenant and homebuyer grievances. Through these procedures the Walker River Housing Department ("WRHD") shall afford all tenants and homebuyers (hereinafter "Participant") a fair and reasonable opportunity to have their grievances heard and considered by WRHD. WRHD shall provide fair and unbiased treatment of disputes and grievances of housing program participants who have legitimate complaints about any programs that are administered by WRHD. This policy provides notice and hearing procedures to ensure that the WRHD affords due process to complainants.

B. Right to Grievance Upon Request

Participants in the Walker River Housing Department Mutual Help, Lease to Purchase and Low Rent Housing programs are entitled to present grievances according to the following procedures. A grievance can arise out of adverse action by the WRHD against the participant, or by the WRHD's failure to act.

C. Exclusions and Limitations

1. Policy Disputes

Certain disputes and grievances shall not be addressed under this Policy. These include policy changes that housing program participants may prefer or desire, but which are not required by applicable law or by agreements between participants and WRHD. The grievance procedures outlined in this Policy are not designed for disputes concerning entities other than the WRHD, class grievances, or policy disputes, or negotiations between a group or groups of residents and the WRHD. Further, the grievance

procedures outlined in this Policy shall not be used to challenge WRHD policies, HUD program requirements or regulations, or the WRHD's authority to design and promulgate such policies, requirements, and regulations.

2. Health/Safety/Right to Peaceful Enjoyment Disputes

Under this Policy, housing program participants do not have grievance rights when the WRHD takes adverse action against occupants for:

- a. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Walker River Paiute Tribe's Housing programs to other residents or employees of the WRHD.
- b. Any drug related criminal activity on or near the premises. For the purposes of this section, the term "drug related criminal activity" shall be defined as the illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute or use of a controlled substance as defined in the Federal Controlled Substances Act (21 U.S.C. 802) or applicable Tribal or Nevada law.

3. Eviction and Other Policies.

Any dispute governed by a separate Housing Department policy that provides a means for the Participant to contest the action or inaction by the Housing Department. These include matters involving eviction actions.

D. Notice of Grievance Policy

A copy of the Grievance procedures outlined in this Policy shall be posted prominently in the WRHD office, and shall be provided to any tenant, homebuyer, or applicant, upon request.

E. No Waiver of Immunity

Nothing in this Policy shall be considered an express or implied waiver of the Walker River Paiute Tribe's or its Housing Department's sovereign immunity.

II. DEFINITIONS

A. Applicant

As used in this Policy, "applicant" refers to a rejected applicant for WRHD housing who requests an informal meeting in accordance with Section III of this Policy.

B. Grievant

As used in this Policy, "Grievant" refers to a Mutual Help Homebuyer, Lease to Purchase Homebuyer, Low Rent tenant, or an authorized member of a Mutual Help, Lease to Purchase or Low Rent household who initiates a grievance under this Policy.

C. Grievance

As used in this Policy, "grievance" refers to a dispute over the WRHD's action or failure to act in accordance with its Mutual Help and Occupancy Agreement, Lease to Purchase Agreement or Low Rent Agreement, requirements, regulations, policies, or procedures, when such action or failure to act affects the rights, duties, welfare or status of the Grievant or the Grievant's household.

III. GRIEVANCE PROCEDURE

A. Informal Discussion Encouraged

Participants are encouraged to communicate complaints to the WRHD informally, as soon as complaints arise, so that disputes and misunderstandings can be resolved efficiently and quickly. Complaints should be brought to the attention of the Resident Services Department, either in person or in writing. If a Grievant actively pursues informal relief with WRHD personnel, the ten (10) day period within which the Grievant must formally raise and submit a written grievance to the WRHD Housing Resident Services begins the day that the Grievant is informed in writing that informal efforts have been unsuccessful.

B. Written Grievance

If a dispute has not been resolved informally, the Grievant shall prepare a written statement of the grievance, and submit it to the WRHD Director. The written grievance must describe:

1. the WRHD's action or failure to act that is the basis for the grievance; and
2. the relief sought by the Grievant.

The grievance shall be titled "Grievance" and shall be submitted to the WRHD Director either by mail or in person.

C. Timing

1. Ten Days of Notice

The grievance must be received by the WRHD within ten days from receipt of notice of the action taken by the WRHD, or if informal process is initiated within ten days of receipt of a written notice that informal efforts have been unsuccessful.

2. Service of Notice

Whenever the WRHD is required to provide notice under this policy, it shall mail the notice by Certified Mail, Return Receipt Requested or have the notice personally served on the Participant by a Housing Department employee or by a Tribal Law Enforcement Officer. The notice shall be deemed given and received on the date it is deposited in the United States mail or delivered in person.

D. Formal Grievance Procedures

1. Housing Department Director

The first step of the formal grievance process shall be for the matter to be heard and determined by the Housing Director. The Housing Director may meet with the Grievant to discuss the matter. In any event, the Housing Director shall issue a written decision on the matter within fifteen days of the WRHD receiving the grievance, unless the parties agree upon a longer time period.

2. Request for Hearing

Within seven days of receiving the Housing Director's written decision, the Grievant may submit a written request to the Tribal Chairman for a Formal Grievance Hearing.

3. Failure to Request Hearing

A Grievant's failure to timely request a hearing will result in a waiver of all hearing rights and the WRHD's disposition of the grievance will be final.

E. Impartiality of Hearing by the Housing Governing Board

The Housing Governing Board members must be impartial to hear a matter, which requires that they not have a conflict of interest with the Grievant or the issues being addressed.

1. Ineligible parties

Impartiality requires that the Housing Governing Board members not be a current employee of the WRHD.

2. Eligible Parties

A Housing Governing Board member may be impartial even though he or she is compensated by the WRHD funds to hold the Formal Hearing, has acted as a Tribal Chairman or panel member in prior grievance hearings for the WRHD, or works for other similarly situated entities to the WRHD.

F. Notice of Hearing

The Tribal Chairman will schedule a hearing before the Housing Governing Board within twenty days of receiving the request for a Grievance Hearing. A letter will be sent to the Grievant by certified mail of the date, time and location for the hearing. The Tribal Chairman shall make reasonable efforts to schedule the hearing at a date, time and location that is convenient to the Grievant; however the decision concerning the date, time and location shall be final.

G. Documents

1. Grievant Rights

Prior to the hearing, the Grievant is entitled to view and copy, at the Grievant's expense, all documents upon which the adverse decision was based, or which will be presented by the WRHD at the hearing (copy fees will be .25 per page). No documents may be presented at the hearing for which the WRHD has refused access to the Grievant. Grievant must schedule with the WRHD Director a date and time at the WRHD offices, 1063 Hospital Road, Schurz, Nevada, 89427, to review the documents upon which the adverse decision was based. Copies of the identified documents will be made available within two (2) working days to the Grievant.

2. Housing Department's Rights

The WRHD is entitled to review and to copy all documents the Grievant intends to present at the hearing. The Grievant must present to the WRHD at least three working days before the hearing the documents the Grievant plans to present at the hearing, which the WRHD may copy. Documents that have not been made available to the WRHD may not be presented at the hearing.

H. Hearing

1. Attendance

Unless good cause for absence is presented, the Grievant must attend the hearing in person. If the Grievant does not appear at the hearing, the Tribal Chairman or Housing Governing Board may determine that the Grievant has waived his/her right to a hearing. The Tribal Chairman or Housing Governing Board shall provide a notice of this decision to the WRHD and the Grievant within ten (10) days of the scheduled hearing. The written decision regarding the attendance requirement is final and not subject to further consideration or review.

2. Representation

The Grievant may be represented at the hearing by a lawyer or person of his or her own choice. If the Grievant intends to be represented by an attorney, the Grievant must give the Tribal Chairman not less than five (5) days written notice prior to the hearing of such intent.

3. Privacy Rights

The hearing shall be private and held in Closed Session.

I. Evidence

The hearing shall be conducted informally and the technical rules of evidence shall not apply, but the Tribal Chairman and Housing Governing Board may exclude evidence that it determines is inherently unreliable, irrelevant or unduly prejudicial. All witnesses shall swear or affirm to tell the truth before testifying.

The Tribal Chairman or Housing Governing Board shall determine what evidence will be admitted and how it will be presented, procedures for the hearing, and the order of witnesses after hearing a summary of the issues to be addressed from the WRHD representatives. The Grievant may present evidence and argument in support of his grievance, and may object to and rebut the WRHD evidence, but may not cross-examine witnesses presented by the WRHD. Evidence of the kind relied upon by reasonable persons in similar evidentiary hearings is admissible, provided it is relevant to the dispute raised in the written grievance.

J. Burden of Proof

1. Grievant Requirements

The Grievant must present evidence that, if believed, would demonstrate a mistake by the WRHD or a violation of WRHD policies, contracts, applicable federal, state or Tribal laws or regulations. If the Grievant presents sufficient evidence to prove by a reasonable certainty that he or she is entitled to the relief sought, the WRHD must then rebut the Grievant's

showing and justify its action.

2. Failure to Provide Sufficient Evidence

Where the Housing Governing Board is not persuaded, more likely than not, that either side has made a showing of reasonable certainty, the Housing Governing Board shall decide against the party who is requesting or proposing a change from the status quo. For example, if the Grievant seeks repairs, but has not proved a need for repair, no repairs shall be required.

3. Postponement

The Housing Governing Board may postpone completion of the hearing if necessary to gather sufficient information, such as scheduling a site visit or inspection if the grievance involves housing conditions.

K. Written Decision

1. Basis for Decision

The Housing Governing Board shall issue a written decision based upon the facts presented at the hearing, and upon applicable WRHD policies, contracts, laws and regulations.

2. Timing

The decision shall be issued within a reasonable period of time, not to exceed ten (10) days from the date of the hearing, and a copy of the decision shall be mailed or delivered to the Grievant and to the WRHD.

3. Finality

The Housing Governing Board's decision shall be final and not reviewable by any other entity.

L. Hearing Conduct

All persons attending the hearing must conduct themselves in an orderly manner. Disorderly conduct by any person may result in the immediate dismissal of the hearing and/or a decision that is adverse to the disorderly party.

IV. CONTINUATION OF TENANT AND OCCUPANCY OBLIGATIONS DURING GRIEVANCE PROCEEDINGS

A. Contract Obligations

Pending resolution of a grievance, the Grievant must comply with his or her contractual obligations pursuant to the Mutual Help Occupancy Agreement, Lease to Purchase Agreement or Low Rent Agreement, such as making monthly payments, cleaning and maintaining the home and cooperating with the WRHD staff. During grievance proceedings, the WRHD shall not be barred from terminating the applicable agreement and seeking to evict the Grievant for new or additional reasons not addressed in the grievance.

B. Disputed Amounts

Failure to pay required monthly payments, rent, the administration charge, or disputed amounts to the WRHD during the pendency of the Grievance shall constitute an automatic waiver of the Grievant's right to grievance proceedings and waiver of the right to a hearing. If a grievance relates to the amount of rent or other charges due, the Housing Department Director may suspend the payment requirement on the Grievant's application for such suspension, but only for good cause shown, and upon such terms as the Housing Department Director decides. The Grievant must continue to pay any applicable monthly Administration Charges.

C. Relief/Remedy

1. Vacant units

The WRHD is not required to keep a housing vacancy available for the Applicant, either before or after an informal hearing request is submitted. Applicants are therefore encouraged to submit corrective information or complaints immediately and to keep their application information up-to-date.

2. Walker River Housing Department Errors

If the WRHD determines that a mistake has been made, it may correct the error by:

- a. Admitting the Applicant (if the opening is still available);
- b. Placing the Applicant on the waiting list for housing;
- c. Granting a housing preference in accordance with applicable policies or regulations;
- d. Revising WRHD policies or procedures; or
- e. Other corrective action.

