

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

CHAPTER 100-70 SECTION 8 PROGRAM GRIEVANCE PROCEDURES

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Chapter Authority: 2 CMC § 4433; Executive Order 94-3 § 407.

Chapter History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21* Com. Reg. 16534 (Feb. 18, 1999).

*Volume 21, number 2, pages 16459-16571 are misnumbered as volume 20.

Commission Comment: 2 CMC § 4411 creates the Mariana Islands Housing Authority (MIHA) as a public corporation within the Commonwealth government, charged with meeting the need for decent, safe and sanitary housing for persons of low and moderate income in the Commonwealth. See 2 CMC §§ 4411-4457. 2 CMC § 4433 sets forth the powers of MIHA, including the general power to do any and all things necessary or convenient to effectuate the purposes of the act and to carry out any of the powers granted by the act. See 2 CMC § 4433(t).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 407:

Section 407. Marianas Housing Authority.

(a) The Marianas Housing Authority is abolished and its functions transferred to a Division of Housing within the Commonwealth Development Authority, which shall have at its head a Director of Housing.

(b) Any bond or other indebtedness of the Mariana Island Housing Authority shall be assumed by the Commonwealth government, but only upon such terms and security as shall have been agreed to previously by the Authority. The full faith and credit of the Commonwealth shall to secure such bond or other indebtedness, except as may have been pledged prior to such assumption or as otherwise provided by law.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

The Northern Marianas Housing Corporation is a subsidiary corporation of the Commonwealth Development Authority and the successor to MIHA under Executive Order 94-3. See 2 CMC § 4482(d).

Part 001 - General Provisions

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§ 100-70-001 Purpose

The grievance procedure codified in this chapter has been adopted to provide a forum and procedure for applicants for assistance, tenants, and program participants to seek the just, effective, and efficient settlement of grievances against the Northern Marianas Housing Corporation (NMHC).

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The 2000 amendments readopted and republished the “Section 8 Program Grievance Procedures” in their entirety. The Commission therefore, cites the 2000 amendments in the history sections throughout this chapter. The Commission inserted commas after the words “tenants” and “effective” pursuant to 1 CMC § 3806(g).

§ 100-70-005 Governing Law

The law governing this grievance procedure is the U.S. Housing Act of 1937 (42 U.S.C. § 1437d(k)) and those regulations adopted by HUD there under, including, but not limited to 24 CFR parts 966, 982, and 983.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The Commission changed “part” to “parts” to correct a manifest error.

§ 100-70-010 Applicability

In accordance with applicable federal regulations, the grievance procedure in this chapter shall be applicable to all individual grievances (as defined in § 100-70-015 below) between a tenant and NMHC. However this grievance procedure is not applicable to disputes between tenants not involving NMHC, or to class grievances involving groups of tenants. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between tenants, or groups of tenants, and NMHC.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

§ 100-70-015 Definitions

The following definitions of terms shall be applicable to the grievance procedure in this chapter:

- (a) “Applicant for assistance”: Any person who has applied to NMHC for assistance, but who is not, at the time of the event which gives rise to the grievance, receiving assistance.

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- (b) “Business days”: Monday through Friday of each week, except for legal holidays recognized by the federal or CNMI government.
- (c) “CFR”: The Code of Federal Regulations, which contains the federal regulations governing the grievance procedure in this chapter.
- (d) “Complainant”: Any tenant (as defined in this section below) whose grievance is presented to the central office of NMHC, or local NMHC field office in the case of individuals residing on Rota or Tinian, in accordance with the requirements set forth in this procedure.
- (e) “Drug-related criminal activity”: The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sale, distribute, or use a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802) as from time to time amended.
- (f) “Elements of due process”: The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in the Commonwealth court:
- (1) Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
 - (2) Right of the tenant to be represented by counsel;
 - (3) Opportunity for the tenant to refute the evidence presented by NMHC, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
 - (4) A decision on the merits.
- (g) “Grievance”: Any dispute which a tenant may have with respect to an action or a failure to act by NMHC in accordance with the individual tenant’s lease, federal and/or CNMI statute, HUD regulation, or NMHC regulation, which adversely affects the individual tenant’s rights, duties, welfare or status.
- (h) “Hearing officer”: An impartial person selected in accordance with applicable HUD regulation and this grievance procedure to hear grievances and render decisions with respect thereto.
- (i) “Hearing panel”: A three-member panel composed of impartial persons, selected in accordance with HUD regulation and this procedure to hear grievances and render decisions with respect thereto.
- (j) “HUD”: The United States Department of Housing and Urban Development.
- (k) “NMHC”: The Northern Marianas Housing Corporation, a public corporation organized and existing under the laws of the Commonwealth of the Northern Mariana Islands.
- (l) “Notice”: As used herein, the term noticed shall, unless otherwise specifically provided, mean written notice.
- (m) “Program participant”: Any person receiving rental assistance from NMHC other than those individuals receiving “project based” assistance.

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- (n) The “Regulations” - The HUD regulations contained in 24 CFR, or elsewhere.
- (o) “Resident organization”: An organization of residents, which includes any resident management corporation.
- (p) “Tenant”: The adult person (or persons) other than a live-in aid*:
 - (1) Who resides in the unit and who executed the lease, as lessee with NMHC as lessor of the dwelling unit, or, if no such persons resides in the unit,
 - (2) The person who resides in the unit, and who is the remaining head of the household of the tenant family residing in the dwelling unit.
 - (3) The term “tenant” is limited to those individuals residing in units in which the rental assistance is “project based.”

* So in original.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The final paragraph of subsection (p) was not designated. The Commission designated it subsection (p)(3).

The 2000 amendments added new subsections (a), (m) and (p)(3), alphabetized and re-designated the remaining sections and amended subsections (d), (g), (h), (i), (n) and (p)(1).

The Commission corrected the capitalization of the phrase “Code of Federal Regulations” in subsection (c) pursuant to 1 CMC § 3806(f). In subsection (j), the Commission inserted the final period.

Part 100 - Grievance Procedure

§ 100-70-101 Incorporation in Leases

The grievance procedure in this chapter shall be incorporated by reference in all leases between tenants and NMHC at all NMHC housing units, whether or not so specifically provided in such leases.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

§ 100-70-105 Informal Settlement of Grievances

- (a) Initial Presentation. Any grievance must be personally presented, either orally or in writing, to NMHC’s main office, within five business days after the occurrence of the event giving rise to the grievance.
- (b) Informal Settlement Conference. If the grievance is not determined by NMHC to fall within one of the exclusions mentioned in § 100-70-010 above, then NMHC will, within five

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business days after the initial presentation of the grievance, informally discuss the grievance with the complainant or their representatives in an attempt to settle the grievance without the necessity of a formal hearing. If the informal settlement conference cannot occur at the time the grievance is initially presented by the complainant, then the complainant will be promptly notified in writing of the time and place for the informal settlement conference.

(c) **Written Summary.** Within five business days after the informal settlement conference, a summary of the informal discussion shall be prepared by NMHC and a copy thereof shall be provided to the complainant. The summary shall be in writing and shall specify the names of the participants in the discussion, the date of the discussion, the nature of the proposed disposition of the grievance, and the specific reasons for such disposition. This written summary will also specify the procedures by which the complainant may obtain a formal hearing if not satisfied by the proposed disposition of the grievance. A copy of the written summary shall also be placed in complainant's tenant file.

Modified, 1 CMC § 3806(c), (e).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

§ 100-70-110 Formal Grievance Hearing

The following procedures apply to the request for a formal grievance hearing under the grievance procedure in this chapter:

(a) **Request for Hearing.**

(1) If the complainant is not satisfied with the results of the informal settlement conference, the complainant must submit a written request for a formal hearing to NMHC's main office no later than ten business days after the date complainant receives the summary of discussion delivered as required under § 100-70-105 above.

(2) Complainant's written request for a formal hearing must specify:

(i) The reasons for the grievance;

(ii) The action or relief sought by the complainant;

(iii) If the complainant so desires, a statement setting forth the times at which the complainant will be available for a hearing during the next ten business days;

(iv) Complainant's preference, if any, concerning whether the grievance should be heard by a single hearing officer or by a hearing panel; and

(v) If the complainant has failed to attend an informal discussion conference, a request that the hearing officer or panel waive this requirement.

(b) **Failure to Request Hearing.** If the complainant fails to request a hearing within ten business days after receiving the written summary of the informal settlement conference, NMHC's decision rendered at the informal hearing becomes final and NMHC is not thereafter obligated to offer the complainant a formal hearing.

Modified, 1 CMC § 3806(c), (d), (e), (f).

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History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The original paragraphs of subsection (a) were not designated. The Commission designated subsections (a)(1) and (a)(2).

The 2000 amendments amended subsections (a)(1) and (b).

§ 100-70-115 Selection of Hearing Officer or Panel

All grievance hearings shall be conducted by an impartial person or persons appointed by NMHC after consultation with resident organizations, in the manner described below:

(a) The permanent appointments of persons who shall serve as hearing officers and hearing panel members shall be governed by the following procedures:

(1) NMHC shall nominate a slate of persons to sit as permanent hearing officers or hearing panel members. These persons may include, but will not be necessarily limited to, members of NMHC Board of Directors, NMHC staff members, residents, or other responsible persons in the community. No persons shall be listed on the slate of members unless such person has consented to serve as a hearing officer or on a hearing panel.

(2) The slate of potential appointees shall be submitted to all NMHC resident organizations, for written comments. Written comments from the resident organization shall be considered by NMHC before appointments are finally made. Objection to the appointment of a person as a hearing officer or panelist must be considered but is not dispositive as to the proposed appointment with respect to which objection is made.

(3) On final appointment, the persons appointed and resident organizations shall be informed in writing of the appointments. A list of all qualified hearing officers and panelists will be kept at the central office of NMHC and be made available for public inspection at any time.

(b) The designation of hearing officers or panel members for particular grievance hearings shall be governed by the following provisions:

(1) All hearings will be held before a single hearing officer unless the complainant (at the time of the initial request for the hearing) or NMHC requests that the grievance be heard by a hearing panel, which shall be comprised of three hearing officers.

(2) Appointments to serve as a hearing officer or panelist with respect to a particular grievance shall be made by NMHC in random order, subject to availability of the hearing officer or panelist to serve in each such case. NMHC may employ any reasonable system for random order choice.

(3) No member of NMHC Board of Directors or staff may be appointed as hearing officer or panelist in connection with the grievance contesting an action which was either made or approved by proposed appointee, or which was made or approved by a person under whom the proposed appointee works or serves as a subordinate.

(4) No person shall accept an appointment, or retain an appointment, once selected as a hearing officer or hearing panelist, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as hearing officers or panelists must disqualify themselves from hearing grievances that involve personal friends, relatives, persons with whom they have any business relationship, or grievances in which they have some personal interest. Further, such persons are expected to disqualify themselves if the circumstances are such that a

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significant perception of partiality exists and is reasonable under the circumstances. If a complainant fails to object to the designation of the hearing officer or panelists on the grounds of partiality, at the commencement or before the hearing, such objection is deemed to be waived, and may not thereafter be made.

(5) In the event that a hearing officer or panel member fails to disqualify himself or herself as required in this grievance procedure, NMHC will remove the panel member or officer from the list of persons appointed for such purposes, invalidate the results of the grievance hearing in which such person should have, but did not, disqualify himself or herself, and schedule a new hearing with a new hearing panel or officer.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The final paragraph of subsection (b) was not designated. The Commission designated it subsection (b)(5).

The 2000 amendments deleted former subsection (a)(2) and amended subsection (b)(1).

§ 100-70-120 Scheduling of Hearings

(a) Hearing Prerequisites. A complainant does not have a right to a grievance hearing unless the complainant has satisfied the following prerequisites to such a hearing:

(1) The complainant has requested a hearing in writing.

(2) The complainant has completed the informal settlement conference procedure or has requested a waiver for good cause.

(3) If the matter involves the amount of rent which NMHC claims is due under the complainant's lease, the complainant shall have paid to NMHC an amount equal to the amount due and payable as of the first of the month preceding the month in which the complained of act or failure to act took place. And, in the case of situations in which hearings are, for any reason delayed, the complainant shall thereafter, deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer or hearing panel. Unless waived by NMHC in writing, no waiver will be given by NMHC except in cases of extreme and undue hardship to the complainant, determined in the sole and absolute discretion of NMHC.

(b) Time, Place, Notice.

(1) Upon complainant's compliance with the prerequisites to hearing set forth above, a hearing shall be scheduled by the hearing officer or hearing panel promptly for a time and place reasonably convenient to both the complainant and NMHC, not later than the tenth business day after complainant has completed such compliance. (In the case of a panel, if all three appointed members of the panel are not able to agree upon a date and time convenient to all panelists, on or before the last date before the hearing permitted under this procedure, they shall immediately so inform NMHC. If two panelists can agree upon a date and time, NMHC shall reappoint a third panelist who shall be available at the time agreed upon by the two who can agree. If none of the panelists can agree upon a time, a new panel shall be appointed.)

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(2) A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate NMHC official, who, unless otherwise designated, shall be the NMHC manager.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The 2000 amendments amended subsection (b)(2).

§ 100-70-125 Procedures Governing Hearings

(a) Fair Hearings.

The hearings shall be held before a hearing officer or hearing panel as described above in § 100-70-115. The complainant shall be afforded a fair hearing, which shall include:

(1)(i) The opportunity to examine before the hearing any NMHC documents, including records and regulations that are directly relevant to the hearing.

(ii) The complainant will be allowed to copy any such document at the complainant's expense. If NMHC does not make the document available for examination upon request by the complainant, NMHC may not rely on such document at the grievance hearing.

(iii) NMHC shall also have the right to inspect and copy, at its expense, any documents that the complainant intends to use at the hearing. Upon request of NMHC, the complainant shall make the originals or copies of any documents that NMHC requests, available to NMHC for copying, at NMHC's central or field office. If the complainant refuses to so provide said documents, then they may not rely on such documents at the hearing.

(2) The right to be represented by counsel or other person chosen as the complainant's representative and to have such person make statements on the complainant's behalf.

(3) The right to a private hearing unless the complainant requests a public hearing. The right to present evidence and arguments in support of the complainant's complaint, to controvert evidence relied on by NMHC and to confront and cross examine all witnesses upon whose testimony or information NMHC or its management relies; and

(4) A decision solely and exclusively upon the facts presented at the hearing.

(b) Prior Decision in Same Matter.

The hearing panel or officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding.

(c) Failure to Appear.

If the complainant or NMHC 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 business days or may make a determination that the party failing to attend has waived the right to a hearing. In such event, the hearing officer or hearing panel shall notify the complainant and NMHC of the determination.

(d) Required Showing of Entitlement to Relief.

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

(e) Informality of Hearing.

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 complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceeding.

(f) Orderly Conduct Required.

The hearing officer or hearing panel shall require NMHC, 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 or hearing panel 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) Transcript of Hearing.

The complainant or NMHC may arrange in advance, and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

(h) Accommodation to Handicapped Persons.

NMHC must provide reasonable accommodation for persons with disabilities to participate in grievance hearings. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The original paragraphs of subsection (a)(1) were not designated. The Commission designated subsections (a)(1)(i) through (iii).

The 2000 amendments deleted former subsection (c)(2) and added new subsection (a)(1)(iii).

§ 100-70-130 Decision of the Hearing Officer or Hearing Panel

At or subsequent to the completion of the grievance hearing, the hearing officer or panel shall make a determination as to the merits of the grievance and the following provisions shall govern:

(a) Written Decision.

The hearing panel or officer shall prepare a written decision, together with the reasons for the decision within ten business days after the completion of the hearing.

(1) A copy of the decision shall be sent to the complainant and NMHC. NMHC shall retain a copy of the decision in the complainant's tenant folder.

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(2) A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by NMHC and made available for inspection by any prospective complainant, their representative, or the hearing panel or hearing officer.

(b) Binding Effect.

The written decision of the hearing officer or hearing panel shall be binding upon NMHC, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless NMHC's Board of Directors determines, within ten business days, and properly notifies the complainant of its determination, that:

(1) The grievance does not concern NMHC action or failure to act in accordance or involving the complainant's lease, or NMHC's regulations, which adversely affect the complainant's rights, duties, welfare, or status, or

(2) The decision of the hearing officer or hearing panel is contrary to applicable federal, CNMI, or local law, HUD regulation or requirements of the annual contributions contract between HUD and NMHC.

(c) Continuing Right of Complainant to Judicial Proceedings.

A decision by the hearing panel or officer or Board of Directors in favor of NMHC or which denies the relief requested by the complainant, in whole or in part, shall not constitute a waiver of, nor effect in any way the rights of the complainant to a trial or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The Commission inserted a comma after the word "welfare" in subsection (b)(1) pursuant to 1 CMC § 3806(g).

§ 100-70-135 Notices

(a) All notices under this grievance procedure shall be deemed delivered:

(1) Upon personal service thereof upon the complainant or an adult member of the complainant's household;

(2) Upon the date received for or refused by the addressee, in the case of certified or registered U.S. mail; or

(3) On the fifth day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

(b) If a tenant is visually impaired, any notice hereunder delivered to such tenant shall be in an accessible format.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

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Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 2000 amendments amended subsection (a)(3).

§ 100-70-140 Modification

(a) The grievance procedure in this chapter may not be amended or modified expect* by approval of a majority of the Board of Directors of NMHC, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the foregoing, any changes proposed to be made to this grievance procedure must provide for at least thirty days advance notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by NMHC, before final adoption of any amendments hereto.

(b) However, if any part of this grievance procedure is in conflict with a federal or CNMI statute, or HUD regulation, then this grievance procedure shall give way to said statute and/or regulation, to the extent necessary to remedy said conflict.

* So in original.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 2000 amendments added new subsection (b).

§ 100-70-145 Miscellaneous

(a) Captions: Captions or paragraph headings set forth in this grievance procedure are for convenience of reference only and shall not be construed or interpreted to affect the substance of the paragraphs or sections so captioned.

(b) Concurrent Notice: If a tenant has filed a request for grievance hearing hereunder in a case involving NMHC's notice of termination of tenancy, the complainant should be aware that the CNMI law notice to vacate and the notice of termination of tenancy required under federal law run concurrently. Therefore, if the hearing officer or hearing panel upholds NMHC's action to terminate the tenancy, NMHC may commence an eviction action in court upon the sooner of, the expiration of the date for termination of tenancy and vacation of premises stated in the notice of termination delivered to complainant, or the delivery of the report of decision of the hearing officer or panel to complainant.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

§ 100-70-150 Expedited Grievance Procedure

(a) When action must be taken by NMHC to terminate a tenancy or terminate assistance because of certain types of criminal activity on the part of the tenant, or those in tenant's household, or tenant's guests, the matter shall be heard under an expedited grievance procedure. This procedure may be used in connection with notices of termination of tenancy or assistance based upon two types of criminal activity:

- (1) Criminal activity that threatens the health, safety, or peaceful enjoyment of NMHC's public housing premises by other residents or employees of NMHC or other residents of the building in which the tenant resides, or
- (2) In a drug-related criminal activity on or near such premises.

(b) In such cases, the following procedures will be followed by NMHC in connection with grievances brought by complainants:

- (1) NMHC shall in its notice of adverse action to the tenant specify that it has elected to proceed under the expedited grievance procedure in the event that the tenant shall request a grievance hearing.
- (2) The complainant shall neither have a right nor an obligation to attend an informal settlement conference under § 100-70-105 hereof, and
- (3) A tenant who desires to request a formal hearing under the expedited grievance procedure shall make such request in writing not later than the end of the third business day following delivery of the notice of adverse action. Failure to timely make such written request for hearing shall constitute a waiver of the right to a hearing.
- (4) Any notice period subsequent to the delivery of a request for formal hearing by a complainant specifying or allowing a period of ten business days or longer hereunder shall be deemed, in the case of the expedited grievance procedure, to specify or allow a period of five business days.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000); Adopted 21 Com. Reg. 16706 (Apr. 19, 1999); Proposed 21 Com. Reg. 16534 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The Commission corrected the phrase "an expedited grievance procedures" in subsection (a) to "an expedited grievance procedure" pursuant to 1 CMC § 3806(g).

The 2000 amendments amended subsections (a) and (a)(1).

§ 100-70-155 Informal Review of Decisions Denying Assistance to Applicants

Any decision by NMHC to deny assistance to an applicant for assistance ("applicant") shall be governed by the procedures set forth in § 100-70-001 through § 100-70-150, above, with the term "applicant" being substituted for the term "tenant" where applicable, however, an applicant's right to a hearing shall be limited to the grounds set forth in 24 CFR § 982.554 "Informal Review for Applicant" and if an applicant is not eligible for an informal hearing under 24 CFR § 982.554, then they shall also not be eligible for a formal hearing.

Modified, 1 CMC § 3806(c), (f).

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000).

§ 100-70-160 Informal Review of Adverse Action Against Participants

(a) Any decision by NMHC to take adverse action against a program participant (“participant”), shall be governed by the procedures set forth in § 100-70-001 through § 100-70-150, above, with the term “participant” being substituted for the term “tenant” where applicable. However, a participant’s right to a hearing shall be limited to the grounds set forth in 24 CFR § 982.555 “Informal Hearing for Participant” and if a participant is not eligible for an informal hearing under 24 CFR § 982.555, then they shall also not be eligible for a formal hearing.

(b) NMHC may only take adverse action against a participant in accordance to the terms of 24 CFR § 982.555.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 100-70-165 Restrictions on Assistance to Non-citizens

The grievance procedures in this chapter shall not apply to the denial of assistance on the basis of ineligible immigration status.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 22 Com. Reg. 17587 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17389 (Sept. 20, 2000).