

BILLERICA HOUSING AUTHORITY

Grievance Procedure Provisions for a Single Hearing Officer

(1) Appointment of Hearing Officers and Jurisdiction. This grievance procedure adopted by The Billerica Housing Authority (BHA) requires a hearing and determination of a matter subject to the procedure by a single hearing officer. The hearing officer shall be appointed to serve for a term not to exceed seven years and shall serve all residents of state-aided public housing in the city or town and participants in the Massachusetts Rental Voucher Program (MRVP) and the Alternative Housing Voucher Program (AHVP) who hold vouchers administered by the BHA, except for those persons who are subject to a different grievance procedure.

Under this procedure the BHA shall from time to time nominate one or more persons to serve as hearing officer(s) to preside at and conduct hearings and to render prompt and reliable written determinations of matters at issue. The BHA shall submit its written nomination(s) for hearing officer(s) to each affected Local Tenant Organization (LTO). Each nomination shall include a resume of the nominee and the length of the term for which he or she is nominated. Within five days of receipt of a nomination any affected LTO may make a written request to the BHA to interview the nominee. Following such a request for an interview by an affected LTO, the BHA shall make prompt arrangements for an interview between the nominee and the LTO(s) which made the request. Within thirty days after the receipt of a nomination or within five days after its interview of a nominee, whichever is later, any affected LTO may approve or disapprove the nominee by giving written notice to the BHA. A notice of disapproval shall include the specific reason(s) why the LTO disapproved the nominee. If all affected LTO(s) shall approve a nominee or if no affected LTO shall disapprove a nominee within the requisite time, the nominee shall thereupon become a hearing officer upon written acceptance mailed or delivered to the BHA which shall notify the LTO(s).

Each hearing officer shall annually certify to the BHA that he or she is ready, willing and able to serve; failure to so certify within ten (10) days of receipt of a written request by the BHA shall render the hearing officer's position vacant.

(2) Impartiality of the Hearing Officer. A hearing officer or a member of his or her family shall not have and shall not appear to have any direct personal or financial interest in the outcome of any matter before him or her. No hearing officer shall be related by blood or marriage to any party or to any person who gives evidence as to facts which are disputed by the parties. No hearing officer may determine matters which directly concern his or her own housing or the housing of a family member or his or her own status or the status of a family member in that housing. Each hearing officer shall determine any matter at issue impartially and objectively on the basis of the evidence and applicable law. Any hearing officer, who shall be or shall appear to be unable to determine any matter impartially and objectively shall remove himself or herself as hearing officer, whether or not he has been requested to do so.

(3) Removal of the Hearing Officer. A hearing officer may be permanently removed from office at any time for inefficiency, neglect of duty, willful and material delay of proceedings, bias or partiality. The BHA and the affected LTO(s) may agree on removal after notice to the hearing officer and the opportunity for him or her to be heard. In the absence of agreement, the Department may remove a hearing officer for cause upon a request by the BHA or the LTO. Prior to removing a hearing officer, the Department shall require a detailed written specification of the reason(s) for removal and, if it finds the specification to set out good and sufficient cause, shall give the hearing officer, the BHA and the LTO(s) the opportunity to be heard. The Department's decision whether to remove a hearing officer shall be in writing mailed to the hearing officer, the BHA, and the LTO(s). If a written specification fails to detail good and sufficient cause for removal, the Department shall deny a request for removal without a hearing.

(4) Appointments of Interim Hearing Officers. If there shall not be a hearing officer able and willing to serve for one or more pending matters and if use of the appointment process in section (1) of this grievance procedure would likely cause significant delay with potential adverse consequences to either the BHA or the grievant, the BHA with notice to the affected LTO(s) may request that an interim hearing officer be named by the Department. Such a request shall be in writing and shall specify the reason for the request. The affected LTO(s) shall be given a reasonable opportunity to comment on the request. If the Department finds there to be a reasonable need for an interim hearing officer, the Department shall name an interim hearing officer. The Department may name a previously disapproved nominee to serve as interim hearing officer if it finds that the LTO's stated reasons for disapproval did not constitute good and sufficient cause for disapproving the nominee.

An interim hearing officer shall have all the powers and duties of a hearing officer and shall serve in the pending matters for which he or she was appointed. An interim hearing officer may be nominated by an BHA to be hearing officer in the manner set out herein.

(5) Scheduling. The BHA shall be responsible for scheduling and other administrative matters, including all necessary notices.

(6) Procedural Provisions. The provisions of 760 CMR 6.08(4) are incorporated by reference into this grievance procedure. These provisions include: (a) the provisions regarding the time and method for initiating a grievance; (b) the requirement of a pre-hearing informal settlement conference between grievant and the BHA about the grievance; (c) the provisions regarding the BHA's setting a hearing date and giving notice to grievant; (d) the grievant's right to inspect relevant documents and to secure copies before the grievance hearing; (e) the provisions regarding who may be present at the grievance hearing; (f) the procedural requirements for the conduct of grievance hearings; and (g) the requirements regarding a written decision following the grievance hearing.

Approved by Billerica Housing Authority Board of Commissioners on November 4, 2021

