

## **Topsfield Housing Authority**

### **Grievance Policy**

Approved by the Board of commissioners on 8/13/20

(1) The Topsfield Housing Authority (THA) Grievance Policy is based upon DHCD's grievance procedure as found in 760 CMR 6.08.

(2) Establishment, Replacement, or Amendment of a Grievance Procedure.

**Negotiation of Grievance Procedures:** This Policy was reviewed and negotiated between THA and the local LTO. If THA or local LTO believe that changes to or replacement of an existing grievance procedure are necessary or appropriate, proposals for establishment, replacement, or amendment of the grievance procedure may be made at any time by either THA or the local LTO.

(3) **Initiation of a Grievance.** A Grievance regarding whether good cause exists for terminating a lease shall be initiated by a tenant in writing and shall be mailed or delivered to the THA at its main office within seven (7) days after a notice of lease termination has been given to tenant by the THA.

A grievance regarding some other matter shall be initiated by a grievant in writing and shall be mailed or delivered to the THA at its main office, if so specified, no more than fourteen (14) days after the date on which the grievant first became aware or should have become aware of the subject matter of the grievance, provided that the THA shall have discretion to permit a grievance to be initiated late.

The THA shall permit additional time for initiation of a grievance if the THA shall find that there was a good reason for late initiation of the grievance and that the late initiation would not cause prejudice to the THA.

(4) **Informal Settlement Conference.** Promptly after the initiation of a grievance, unless otherwise provided, the THA's Executive Director or his or her designee shall give the grievant the opportunity to discuss the grievance informally in an attempt to settle the grievance without the necessity of a grievance hearing. The THA shall give reasonable advance notice to the grievant and his or her representative (if any) of a time and place for an informal settlement conference, unless such a conference shall have taken place when the grievance was delivered to the THA. If a matter is not resolved at the informal settlement conference, a grievance hearing shall be held. Failure to attend an informal settlement conference shall not affect a grievant right to a grievance hearing.

(5) **Hearing Date and Notice of Hearing.** A grievance hearing regarding whether good cause exists for terminating a lease shall be scheduled within fourteen (14) days or as soon as reasonably practical after the date on which the THA receives the grievance. A hearing of a grievance regarding some other issue, shall be scheduled as soon as reasonably convenient following receipt of the grievance.

The THA shall give reasonable advance written notice of the time and place of the hearing to the grievant and to his or her representative (if any). The THA, the hearing panel, or the hearing officer may reschedule a hearing by agreement or upon a showing by grievant or by the LHA that rescheduling is reasonably necessary.

(6) **Persons Entitled to be Present.** The grievance hearing shall be private unless the grievant requests that it be open to the public. If the grievant requests an open hearing, the hearing shall be open to the public unless the hearing panel or the hearing officer otherwise orders. The THA and the grievant shall be entitled to specify a reasonable number of persons who may be present at a private hearing. A challenge to the presence of any such person shall be decided by the hearing panel or the hearing officer. At the hearing the THA and the grievant may be represented by a lawyer or by a non-lawyer. Each person present at the hearing shall conduct himself or herself in an orderly manner or he or she shall be excluded. If the grievant misbehaves at the hearing, the hearing panel or hearing officer may take other appropriate measures to deal with the misbehavior, including dismissing the grievance.

(7) **Procedure at Grievance Hearings.** The hearing panel or the hearing officer shall conduct the grievance hearing in a fair manner without undue delay. The hearing panel or the hearing officer shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material, shall be received regarding such issues. Both the grievant and the THA shall be entitled to question each other's witnesses. Procedure at the hearing shall be informal, and formal rules of evidence shall not apply. The hearing shall be tape-recorded. The members of the hearing panel or the hearing officer may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and THA rules and policies. The panel members or the hearing officer may request the THA or the grievant to produce additional information which is relevant to the issues or which is necessary for a decision to be made provided that the other party is provided an opportunity to respond to such additional information.

(8) **Written Decision.** Effect of Decision. Within fourteen(14) days following the hearing or as soon thereafter as reasonably possible the hearing panel or the hearing officer shall provide the THA with a written decision on the grievance, describing the factual situation and ordering whatever relief, if any, that shall be appropriate under the circumstances and under applicable laws, regulations, rules and/or policies. The decision shall be based on the evidence at the grievance hearing and such additional information as may have been requested by the panel members or the hearing officer. The THA shall forthwith mail or otherwise deliver a copy of the decision to the grievant and his or her representative. A copy of the decision (with names and personal identifiers deleted) shall thereafter be maintained at the THA and shall be open to public inspection.

(9) **Review by the THA's Board.** In cases where the decision concerns whether good cause exists for terminating a lease, there shall be no review by the THA's Board. In other cases, in the event that the grievant or the THA believes that (i) the decision of the hearing panel or hearing officer is not supported by the facts; (ii) the decision does not correctly apply applicable laws, regulations, rules and/or policies; or (iii) the subject matter is not grievable, within fourteen (14) days of mailing or other delivery of the decision, the grievant or the THA may request review of the decision by the THA's Board. The Board shall promptly decide whether to uphold, set aside or modify the decision after permitting the THA and grievant to make oral presentations and submit documentation. The Board may also permit the hearing officer or hearing panel to make a presentation. The decision of the Board shall be in writing and shall explain its reasoning. If a written decision is not rendered within forty-five (45) days from the date a review is requested, the decision of the Board, when rendered, shall specify a reason showing that there has been no undue delay.

(10) **Review by the Department.** In the event that the THA's Board shall make a material change in a decision of the hearing panel or hearing officer, upon written request of the grievant made within fourteen (14) days of mailing or other delivery of the decision, the Department shall review the decision

of the Board and shall render a written decision upholding, setting aside or modifying the decision of the Board.

**(11) Effect of a Decision on a Grievance.** The decision on a grievance shall be binding between the THA and the grievant with respect to the particular circumstances involved in the grievance, provided that if a court has jurisdiction to determine a matter which has been subject to decision on a grievance, the court's determination on the matter shall supersede the decision on the grievance. The fact that a person may have failed to grieve a matter shall not affect any such jurisdiction by a court. As between the THA and any person who was not a grievant, the decision on a grievance shall have no binding effect.

Hearing panel members:

Paula Burke 978-887-1500 pburke@topsfeld-ma.org

Lynne Conant 978-561-1988 Lynn.conant.re@gmail.com

Laura Zalewski 978-887-1528 x 27 [Lzalewski@mvlc.org](mailto:Lzalewski@mvlc.org)

Jan Gaboriault 978-887-8660 alternate

If we are unable to convene three panel members after calling the above phone numbers and waiting 48 hours, we will change to a single hearing officer. Kate Mcguire, Executive Director, Ipswich Housing Authority 978-356-2860.