

BILL OF RIGHTS
FOR
PUBLIC HOUSING TENANTS

I. RIGHTS OF APPLICANTS FOR PUBLIC HOUSING

Sec. 1. The Authority's application forms shall seek only such information as is pertinent, including the size of the household unit, the income of that household unit and the need of that unit for public housing. Questions concerning the legal standing or the marital status of members of the family, the legitimacy of the children in the family, the police record of members of the family and other such information, including race or religion, shall not appear on the application form, or be asked by any Authority employee.

Sec. 2. Once the application form has been completed, an applicant shall be given a number which indicates his chronological place on the waiting list for the size apartment necessary for his family, unless on the face of the application the family is ineligible because of excess income or is ineligible because the applicant lives in decent housing and pays a rent he can afford.

Sec. 3. For the purpose of determining initial eligibility, all statements made on the application are presumed to be true. The Authority may verify income by communicating with an applicant's employers, with the Department of Family and Children's Services, or with other income sources.

- (a) If the Authority determines that despite the statement given on the application form the person or family is ineligible for public housing because of excess income or no need, the family must be notified in writing within 30 days following the date of the application of

their ineligibility and the detailed reasons for it. If the household unit is held to be ineligible and wishes to challenge this determination, a hearing shall be afforded. This hearing shall comply with the provisions of Part III hereof.

An applicant who demands a hearing may not be removed from the waiting list until the Hearing Panel determines the question of eligibility.

- (b) Any applicant not notified that he is ineligible within 30 days after the date of the application is deemed to be eligible, and thereafter the Authority may not challenge his eligibility unless there is a substantial change in the income of the family or the composition of the household unit, or the Authority can demonstrate that the applicant has moved to decent housing at a rent he can afford.

Sec. 4. Applicants shall be processed in strict chronological order and no priority shall be given except those required by Federal statutes and regulations adopted thereunder.

Sec. 5. The Authority shall make available for inspection at reasonable times and places the rent schedule in effect at all projects under its administration and the number of apartments available in each project broken down by the size of apartment. The Authority shall also make available for inspection the general schedule of maximum income which will permit persons to be eligible for admission to its projects. The Authority shall make available for public inspection the waiting list of applicants.

Sec. 6. When an applicant has been notified that he is eligible and that an apartment is available, he shall be permitted 30 days within which to accept or reject the offered apartment.

II. RIGHTS OF TENANTS IN PUBLIC HOUSING

Sec. 1. The lease shall be written in clear concise language able to be understood by laymen of average intelligence.

Sec. 2. The signed lease does not in any way subtract from any rights of the tenant under the United States Constitution, Federal and State statutes, case law or regulations promulgated by the Department of Housing and Urban Development.

Sec. 3. No lease, regulation or other written or oral agreement shall permit the termination of a tenancy on grounds other than the following:

- (a) non-payment of rent;
- (b) commission of active waste (physical destruction) of the leased premises by tenant;
- (c) tenant is over-income as determined by the Housing Authority; except that eviction shall not be permitted if eviction would work extreme hardship on the family unit;
- (d) substantial interference with other tenants;
- (e) failure of resident to provide the Authority with income statement within 30 days from date of request.

Sec. 4. The Authority shall not interfere directly or indirectly with the right of its tenants to free speech, to organize or to seek redress of grievances. No tenant shall be evicted or otherwise penalized for engaging in such activity.

Sec. 5. The Authority shall not interfere with the right of its tenants to quiet enjoyment of the premises, nor shall the Authority infringe upon its tenants' right to privacy. The Authority shall not enter the premises rented by a tenant without the tenant's express permission, except in case of emergency.

Sec. 6. Rent is defined as that sum of money expressly provided for in the lease between the tenant and the Authority. The Authority is forbidden to levy any fines, fees, or other financial sanctions upon tenants. The cost of repairs shall be charged to a tenant only if the damage was caused by the tenant's negligence, and such cost of repairs shall be collectible only by a separate civil action. The Authority may not evict a tenant for failure to pay a damage charge. The tenant shall not be responsible for ordinary wear and tear.

Sec. 7. Where repairs are deemed necessary by a tenant, the tenant or a tenant organization shall have the right to submit a written or oral complaint to the Authority. If the complaint is oral, the responsible official of the Authority shall reduce that complaint to writing. If the needed repairs do not create an emergency (i.e., pose a threat to the tenant's safety or health) the Authority shall have 30 days in which to consider the complaint and take appropriate action; provided that repairs to gas and electrical appliances

and equipment and locks on outside doors must be made within 36 hours of the complaint. If the Authority fails to act within 36 hours on an emergency complaint, the tenant may contract privately to have repairs made which will eliminate the emergency conditions. The tenant may reduce his rent by the cost of repairs made to insure his health and safety.

Sec. 8. Where repairs are deemed necessary by the Authority, the tenant may make repairs at his own expense.

Sec. 9. The Hearing Panel may invite the City housing inspectors to inspect Authority premises in order to determine the existence of housing Code violations.

The Authority hereby waives any immunity it may otherwise possess with respect to the action of the City's housing code inspectors.

Sec. 10. Overall responsibility for rodent control and maintenance of lawns, hallways, staircases and other common areas of the Project shall rest in the Authority. It shall bear all expenses for materials and labor and shall replace tenants' garbage receptacles in need of same. Where regular garbage collection is insufficient to control infestation, additional collections shall be made at the expense of the Authority.

Sec. 11. The graded rent system, whereby a tenant is charged a rental which accords with his income, shall be applied uniformly. Rent shall be calculated on the basis of actual income, and not possible, presumed or potential income. Income earned by a minor child shall not be considered as part of the parent's income unless the child actually contributes to the household expenses.

Sec. 12. Rent shall be redetermined no more often than once a year, with the exception of "hardship rent."

Where, during the course of a tenancy, a tenant undergoes a serious reduction in income, rent shall be reduced immediately. Such "hardship rent" shall then continue until the next annual redetermination, with the obligation upon the tenant to report any restoration of original income level during this period.

Sec. 13. In any redetermination of income, temporary income shall not be projected on an annual basis, unless tenant's prior work history clearly indicates a pattern of maintaining temporary jobs on a continuous basis. Children of the head of the household who are under the age of 21 shall not be adjudged to be income-producing unless the Housing Authority has actual evidence of their employment.

Sec. 14. Only a substantial increase or decrease in family income shall bring redetermination procedures into operation. Such amount shall be no less than \$400, computed on an annual basis, or other basis if work is temporary.

Sec. 15. Decreases in rent shall be retroactive to the beginning of the rent determination period. Increases in rent shall not be retroactive except in cases where the Hearing Panel finds that the tenant willfully concealed information.

Sec. 16. Any disputes regarding redetermination shall be submitted to the Hearing Panel or other arbitration body. The "reduced rent" concept, by which the tenant agrees in advance to be bound by any increases (up to maximum rent), shall be eliminated.

III. THE RIGHT TO AN ADMINISTRATIVE HEARING AND DUE PROCESS

Sec. 1. The Authority shall adopt and promulgate regulations establishing policies for occupancy in public housing. The regulations shall give full consideration to the right of tenants and rejected applicants to due process of law. Said regulations, which shall be incorporated in all leases executed by the Authority, shall be posted on all bulletin boards within the Project, and shall provide at least the following minimum protections:

Sec. 2. Notices

- (a) Every notice of eviction or other sanction against a tenant and every rejection of a tenant's application shall be typewritten, signed by an official of the agency, and mailed in a postage prepaid envelope addressed to the tenant's apartment of residence in the project, or, in the case of applicants, the address furnished with the application by registered mail, return receipt requested.
- (b) The notice shall advise the tenant or applicant of his right to a hearing on the action taken. The notice shall further advise the tenant or applicant in clear and precise language of the specific grounds for the action taken.

(c) The notice shall further advise the tenant of his right to be represented by legal counsel (including the address of the local Legal Aid office) or by any other person of his choosing at the hearing; his right to demand that the Authority produce at the hearing any employee whose testimony is alleged relevant. A copy of the rules governing the conduct of hearings shall be attached to the Notice.

(d) Every such notice shall issue within 5 days of a final decision by the Authority on the application, eviction or complaint.

Sec. 5. Hearing Officers

a) Hearings shall be conducted before a panel of three officers: one officer to be designated by the Authority; one officer to be designated by the tenants of the project; and one officer to represent the public, to be designated by agreement of the other officers.

b) The representative of the tenants shall be elected by secret written ballot. At least three weeks' notice shall be given prior to each annual election (except in the case of an election to replace a representative for an unexpired term, in which case ten days' notice shall suffice.) The Authority shall provide a convenient polling place, and establish convenient hours for balloting. No employee of the Authority shall be present at the polling place. Necessary supervision of the polling place shall be conducted by a committee of persons appointed by the outgoing hearing officers.

Tenants shall be allowed to file a written sealed ballot up to a period of 48 hours preceding the election.

c) All officers shall act in their respective capacities for one year terms. Elections shall be held on a date exactly one year after the original election unless otherwise agreed to by majority vote of the tenants. In the event of resignation or disability to serve, the successor representatives shall be designated within ten days of the effective date of said resignation or disability, to serve as officers for the balance of the respective one year terms. An interim tenants' representative shall be elected in the manner prescribed in sub-paragraph (b).

d) All officers shall be compensated out of the Authority's funds at the rate of twenty-five dollars for each day of hearing service, or substantial portion thereof.

e) Each hearing officer shall serve for one month as Chairman of the Hearing Panel. At the end of each calendar month, the Chairmanship shall pass to a different officer. Each officer shall serve four months during each year as Chairman.

Sec. 6. Jurisdiction of the Hearing Panel

a) The panel shall have jurisdiction to decide issues relating to evictions or other sanctions sought to be imposed by the Authority; rent determinations; and complaints by tenants against management personnel but not against other tenants (unless such complaints against other tenants are considered as part of an eviction action under Section I (d) of Part II of this Bill of Rights).

b) The panel shall determine whether the action taken by management conflicts with the Housing Act, the regulations of the Housing Assistance Administration, or the local Authority. If the panel determines that a conflict exists, it shall order the Authority to dismiss the notice of eviction, or order any other necessary and appropriate relief.

In the event that the matter of issue does not conflict with a specific provision of the statute or the regulations, the panel shall decide the case, in an equitable manner, with the object of effectuating the humane intent and purposes of the Housing Act of 1937, as amended.

Sec. 7. Conduct of Hearing

a) Rights of Parties. In any hearing held pursuant to this Section, any party shall have the right to appear, to be represented by counsel or other person of his choosing; to call, examine, and cross-examine witnesses; to introduce into the record documentary or other evidence; and to present an opening statement and closing argument.

b) Burden of Proof. In any hearing involving an eviction, rent determination or charges for damage to property, the burden of proof shall be on the Housing Authority to support its position by a fair preponderance of the evidence. In a hearing involving any other issue the same burden of proof shall be on the party requesting the hearing. The party having the burden of proof shall present its case first.

Sec. 8. Hearing Optional

a) The hearing procedure provided herein shall be deemed to be optional with the tenant or applicant. The tenant or applicant shall have the right to refuse a hearing before the Hearing Panel and to seek in the first instance such relief as is available from the courts.

b) The hearing procedure provided herein shall be deemed to be mandatory on the Housing Authority. The Authority must utilize the hearing procedure in the first instance and may only seek judicial review of decisions of the hearing panel.

IV. TENANT ASSOCIATIONS

Sec. 1. The local agency shall allow free access to Community Centers in the various projects for any purpose, provided that 5 tenants request permission to use the Center.

Sec. 2. Management involvement in the formation and operation of the tenant associations shall not be encouraged, and management representatives may attend tenant association meetings only by invitation of a majority of the association members.

Sec. 3. The extent of management involvement in the tenant association is a proper subject for review by the Hearing Panel.

V. TENANT PARTICIPATION IN MANAGEMENT

Sec. 1. Each project tenant association shall elect one representative to meet with the Authority, for the purpose of advising the Authority as to the needs of public housing tenants. This advice shall include, but not be limited to, plans for new construction, plans for modernization and beautification, decisions on rent collections, maintenance policies, social services, police relations and pest control.

Sec. 2. Tenant participation in management requires among other things, that the manager be a full-time resident of the project.