

Baranof Island Housing Authority



Grievance Policy

PURPOSE: To assist in the resolution of complaints by BIHA program applicants and Participants and to afford program applicants and Participants a fair and reasonable opportunity to have their responses heard and considered by BIHA. It is not intended to provide a forum for the aggrieved party to challenge BIHA's policies, tribal or federal or applicable state codes, requirements and/or regulations, to settle domestic disputes, or to resolve matters which are more appropriately a police or court matter.

SCOPE:

1. Applies to all BIHA programs' Participants.
2. Grievances regarding actions for which a court hearing is necessary to carry out BIHA action (such as eviction or termination of tenancy) are NOT subject to the Grievance Policy because the state or the Sitka Tribal Court will afford claimants an opportunity to be heard on the merits of their particular case.

POLICY:

1.01 Definitions

- A. A **complainant** is any Participant whose complaint is presented to BIHA Staff, up to the Executive Director, on an informal basis.
- B. A **formal hearing** is the process by which the Board of Commissioners hears an appeal by a complainant dissatisfied with the Executive Director's decision.
- C. A **grievance** is any dispute which a Participant may have with respect to BIHA action which adversely affects the individual Participant's rights, duties, welfare, or status.
- D. An **informal hearing** is the process by which complaints are first considered by the appropriate BIHA Staff.
- G. A **Participant** is a lessee or the remaining head of household of any Participant family residing in housing accommodations owned or leased by the BIHA.

1.02 Due Process

The BIHA Grievance Policy shall comply with the Indian Civil Rights Act, if applicable, and shall assure that applicants/Participants in all programs/developments will

- be advised of the specific grounds of any proposed adverse action by BIHA;
- have an opportunity for an informal hearing and afterwards, if warranted, a hearing before the Board of Commissioners upon timely request as outlined in these policies and procedures;

- have an opportunity to examine any documents or records or regulations related to the proposed action;
- be entitled to be represented by another person of their choice at any hearing;
- be entitled to ask questions of witnesses and have others make statements on their behalf; and
- be entitled to receive a written decision by BIHA on the proposed action.

1.03 Filing Complaints

- A. Complaints pertaining to neighbors who are BIHA Participants must be made in writing utilizing the BIHA Complaint form. Assistance in writing the complaint will be made available to the Participant at the Participant's request.
- B. All complaints pertaining to BIHA action are to be presented **first** on an informal basis, either orally or in writing, to the BIHA Staff. If the complaint remains unresolved, the complainant must request an informal hearing with the Executive Director.
- C. Regardless of the nature of the complaint, all payments due BIHA are to be paid as agreed upon per the lease agreement or any promissory note or other repayment plan in the amount equal to the amount paid in the month preceding the complaint plus any fees.
- D. Complainants dissatisfied by the Executive Director's decision may request a hearing before the Board of Commissioners in accordance with the procedures contained herein.
- E. The Executive Director must implement procedures which will ensure that complaints and BIHA response to complaints are documented.

1.04 Informal Hearing

- A. The complaint must be made to the appropriate Staff within **15** working days of the act which is the basis of the grievance. If the complaint pertains to the actions of another Participant, the complaint must be in writing, utilizing the complaint form (**Exhibit 1.1**). The Staff will assist in the preparation of complaints upon request of the Participant.
- B. Complainants dissatisfied with the appropriate Staff's decision may request an informal hearing with the Executive Director within **10** working days of the appropriate Staff's decision.
- C. The Executive Director will schedule a meeting with the complainant as soon as it is possible, time and place reasonably convenient to the complainant, and will notify the complainant in writing.

- D. If the complainant fails to show up for the scheduled meeting without notification, the right to a hearing through BIHA Grievance Policies will be waived, and the complainant shall be so notified in writing. However, this does not constitute a waiver of the complainant's right to contest BIHA's decision through legal proceedings in the Alaska State or Tribal Court.
- E. The Executive Director will attempt to consider all the facts associated with the complaint in order to discuss and, hopefully, resolve the complaint without the necessity of a formal hearing.
- F. A written summary of the discussion and the Executive Director's decision will be sent to the complainant within 15 working days of the date of the informal hearing. The summary will include names of participants, date of the meeting, nature of the complaint, the Executive Director's decision and the basis of the decision, and the procedures by which a formal hearing can be obtained.

1.05 **Request for a Formal Hearing**

- A. In the event the complainant does not receive a response to their grievance or feels that their grievance has not been resolved appropriately, he/she may submit within **15** working days of the date of the Executive Director's decision (date of correspondence) a **written request** to the Executive Director to be placed on the next regular meeting agenda to have the complaint heard by the Board of Commissioners.
- B. The complainant's written request shall be considered a notice of appeal, and it must specify the following information:
 1. The reason for the grievance;
 2. The action or relief sought; and
 3. Action(s) taken by BIHA to resolve the complaint that were allegedly incorrect.
- C. If the complainant's request for a formal hearing is **not** in accordance with ***Item 1.05 A and B***, the Executive Director or designee will attempt to assist the complainant with the proper procedures.
- D. The Executive Director will send written confirmation of the date, time and place of the Board of Commissioners meeting in which the grievance will be heard.
- E. The Executive Director will notify the Board of Commissioners of the request and provide copies of materials relevant to the appeal.
- F. If the complainant fails to appear at the formal hearing, then BIHA's disposition of the grievance under the informal hearing process shall become final. However, this does not constitute a waiver of the complainant's right to contest BIHA's decision through legal proceedings in the state or Sitka Court.

1.06 Procedures Governing the Formal Hearing

- A. The formal hearing shall be held before the Board of Commissioners, who will act as the hearing panel.
- B. The Chairman of the Board of Commissioners will preside over the hearing and ensure that rules of procedure are followed.
- C. Review by the Board will consist of a review of all the facts presented and the procedures of BIHA to ensure the protection of Participant rights.
- D. The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include
 - 1. The opportunity to examine before the hearing all documents relevant to the hearing;
 - 2. The right to be represented by counsel or other person chosen as his/her representative;
 - 3. The right to present evidence and arguments in support of his/her complaint, to refute evidence relied on by BIHA, and to confront and cross-examine all witnesses; and
 - 4. A decision based solely and exclusively upon the facts ***presented at the hearing.***
- E. The Board of Commissioners may render a decision without proceeding with the formal hearing if the Board determines that the issue has been previously decided in another proceeding or if the complaint pertains to issues not within the control of BIHA (i.e., regulations, statutes, etc.).
- F. If the complainant fails to show up for the scheduled meeting without notification, the Participant's right to a hearing through BIHA Grievance Policies will be waived, and the complainant shall be so notified in writing. However, this does not constitute a waiver of the complainant's right to contest BIHA's decision through legal proceedings in the Alaska State or the Sitka Tribal Court.
- G. At the hearing, the complainant must state the complaint and make a showing of an entitlement to the relief sought.
- H. BIHA must demonstrate that BIHA action is justified and is in accordance with BIHA procedures.
- I. The hearing shall be conducted informally by the Chairman of Board 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 proceedings.

1.07 Decision of the Board of Commissioners

- A. After consideration of all the facts, the Board of Commissioners will render a decision within **30** calendar days of the date of the formal hearing.

- B. The Executive Director will prepare a letter for the Chairman's signature, communicating the decision of the Board to the complainant and to Staff.
- C. Depending on the nature and extent of the complaint, the written decision may include a statement of findings and conclusions, the basis for the decision, etc.
- D. BIHA shall retain a copy of the decision in the Participant's folder along with all relevant information.

1.08 Disclaimer

- A. The BIHA Grievance Policies and Procedures and any decisions made by BIHA and/or the Board of Commissioners shall not constitute a waiver of, nor affect in any manner whatever, any rights the complainant may have to a trial de novo or judicial review in any Alaska State or Tribal judicial proceedings, which may thereafter be brought in the matter.
- B. Use of the BIHA Grievance Policies and Procedures does not prohibit BIHA from commencing legal eviction proceedings and/or from taking action at any time to protect its legal rights and interests.