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## Section 8. Procedures for Exceptions and Grievances

Situations may arise where a special review is appropriate to allow for exceptions to the application of these Policies, or to address grievances against BCHA for its actions or failure to act in accordance with these Policies. These two processes are described below:

### A. Request for an Exception

- 1) Exceptions to any provision of these Policies may be granted by the BCHA Board when, because of unique circumstances, the strict application of the policy places an undue hardship or burden on a particular Applicant, Tenant, or owner. An undue hardship or burden is not merely an inconvenience or issue of preference but must be burdensome or restrictive enough to create a significant difficulty or expense for the Applicant, Tenant, or Owner.
- 2) Any Applicant, Tenant, or Owner may file a request for an Exception with BCHA, in writing stating:
  - a) The Specific BCHA Policy or Policies which the Applicant, Tenant, or Owner is requesting waiver of or alteration to;
  - b) The circumstances constituting an undue hardship or burden which are the basis for the Exception request;
  - c) The action requested to resolve the undue hardship or burden (i.e., partial waiver, complete waiver, or modification of the Policy or Policies); and,
  - d) The name, address, and telephone number of the person making the request and his or her representative, if any.
- 3) Upon receipt of a request for Exception, the BCHA staff shall:
  - a) Review, investigate, and prepare for the BCHA Board a report analyzing and making a recommendation on the requested Exception;
  - b) Shall forward the report to the Board and all parties involved to hear and make a decision on the request, but in no event shall such meeting take place more than thirty (30) days after receipt by BCHA staff of the request for Exception.
- 4) At the meeting, the Board shall review the request and any additional information and evidence presented by the person making the request and any other person present at the meeting. Prior to making a decision on the request, the Board may

continue the meeting as it deems necessary to obtain additional information or for further deliberations, but in no event shall the Board delay a decision by more than thirty (30) days absent exigent circumstances.

The Board may approve, approve with conditions or alterations, or deny a request for an Exception. and such decision shall be issued in writing, and delivered to all parties involved. The decision of the Board shall be supported by written explanation and findings. A decision to approve a request for an Exception shall be based on the following findings:

- 5) Based on the request for Exception and any supplemental documents or information considered, the strict application of the BCHA Community Housing Administrative Policies to the Applicant, Tenant, or Owner causes an undue hardship or burden, and not merely an inconvenience or issue of preference, which is unique to the person and circumstances for which the request is made;

The strict application of the BCHA Community Housing Administrative Policies to the Applicant, Tenant, Owner is the primary cause of the undue hardship or burden, such that the remedy of any other contributing factors would not relieve the Applicant, Tenant, or Owner of the undue hardship or burden.

- a) Approval of the request is consistent with the spirit, purpose, and intent of the Policies;
- b) Approval of the request will not give the person requesting the Exception an undue or unfair advantage over another person, but will merely relieve them of the undue hardship or burden;
- c) Approval of the request will not conflict with any provisions of the BCHA Deed Covenant on the property subject to the request; and
- d) Approval of the request of Exception is the only reasonably available remedy to the undue hardship or burden, and the exception is not overly broad in its scope.

The Board will provide the person making the request with its written decision and findings. The Board will make every effort to render a decision within sixty (60) days after the filing of the request and all requested information. Applicants to whom a request for Exception is denied may appeal the decision by submitting a formal Grievance in accordance with the procedure described below.

## B. Grievance Procedure

- 1) A Grievance may be filed by any Applicant, Tenant, or Owner based on an alleged violation by BCHA of one or more provision of this Policy, or as a means of appealing a denied request for Exception.
- 2) Any Applicant, Tenant, or Owner may file a general Grievance with BCHA, in writing, stating:
  - a) The specific provision of this Policy which the Applicant, Tenant, or Owner alleges BCHA to be in violation of;
  - b) The specific BCHA action or omission which the Applicant, Tenant, or Owner alleges to be the violation;
  - c) The action requested to cure the violation; and
  - d) The name, address, telephone number, and email of the grievant and his or her representative, if any.
- 3) Any Applicant, Tenant, or Owner may appeal the denial of a request for Exception by filing a Grievance with BCHA, in writing, stating:
  - a) Which request for Exception is being appealed;
  - b) Evidence demonstrating that the findings necessary to approve a request for Exception, as described in 8.A.5, are present, and that denial was therefore improper;
  - c) The action requested to cure the allegedly improper denial; and
  - d) The name, address, telephone number, and email of the grievant and his or her representative, if any.
- 4) An appeal of the denied request for Exception shall be heard in the same manner described in 8.A.3. If the request is again denied on appeal, the grievant may submit a final appeal to the Blaine County Board of Commissioners, in writing, within thirty (30) days after the date the decision is rendered.

## C. Grievance Hearing

The Grievance Hearing must be conducted by BCHA as follows:

- 1) Upon receipt of a written Grievance, a public hearing before the BCHA Board of Commissioners must be scheduled. The grievant must be afforded a fair hearing providing the basic safeguards of due process, including notice and an opportunity to be heard in a timely, reasonable manner, and to present evidence.

- 2) Notice of the public hearing shall be provided to the Board, the grievant, and any other parties involved, to be held as soon as practicable and convenient to the Board and the grievant, but in no event shall such hearing take place more than thirty (30) days after receipt by BCHA staff of the grievance.
- 3) Within no less than seven (7) days prior to the hearing, and at the expense of the grievant, the grievant and BCHA must have the opportunity to examine and to copy all documents, records, and regulations of BCHA and the grievant that are relevant to the hearing.
- 4) If, after written request for production of such, any document, record, or regulation is not made available by BCHA or the grievant in the aforementioned manner, said document may not be relied upon at the hearing.
- 5) If any of the above requirements cannot be reasonably fulfilled by the originally scheduled date of the public hearing, the matter may be continued, with or without request by the grievant, and at the discretion of BCHA. Any decisions to continue the hearing shall be provided, in writing, to the grievant as soon as reasonably practicable. Any continued hearing shall be rescheduled for a date no later than thirty (30) days after the originally scheduled hearing.
- 6) At the public hearing, the grievant shall present their argument and the evidence in support of it before the Board.
  - a) The grievant has the right to be represented by counsel.
  - b) Oral or documentary evidence may be received without strict compliance with the rules of evidence applicable to judicial proceedings.
  - c) The opportunity to cross-examine may be afforded or denied at the discretion of BCHA, and, if afforded, may be regulated by BCHA as it deems necessary for a fair hearing.
- 7) Following the conclusion of the public hearing and based on the records of proceedings, BCHA will provide a written decision and include therein the reasons for its determination. Prior to making the decision, the Board may continue the meeting as it deems necessary to obtain additional information or for further deliberations. However, every attempt must be made to settle a Grievance with BCHA within six months after the date the Grievance is filed, and any decision shall be issued within six months after the date the Grievance is filed.
- 8) BCHA will make its determination on the basis of these Community Housing, BCHA Policies, and relevant BCHA-drafted Deed Covenants attached to the land.
- 9) If the complainant fails to appear at the scheduled hearing, BCHA may make a

determination to continue the hearing, dismiss the grievance, or make a determination based upon the written documentation and the evidence submitted.

- 10) The decision of BCHA will be binding on all parties involved, and BCHA and/or the grievant shall take all actions necessary to carry out the decision following its issuance as soon as reasonably practical. If the grievant disagrees with the decision issued by BCHA, they may appeal the decision to the Blaine County Board of Commissioners, in writing, within thirty (30) days after the date the decision is rendered.
- 11) BCHA must have the authority to enforce its determinations, as provided by law and put forth in these Community Housing , BCHA Policies and BCHA-drafted Deed Covenants attached to the land.

#### D. Alternative mechanisms for hearing and resolution

- 1) In the event that the aforementioned grievance procedure is not an appropriate or reasonably achievable means of resolving the matter, any of the following alternative methods for dispute resolution may be utilized:
  - a) Use of a certified mediator in Blaine County, or as nearby as reasonably practical;
  - b) Through the Idaho Human Rights Commission;
  - c) Through a civil court proceeding;. The grievant may be eligible for pro bono legal assistance through Idaho Legal Aid; or,
  - d) If a Fair Housing violation is suspected, the local jurisdiction may be contacted to conduct an investigation. If the grievant disagrees with the findings of that investigation, they may appeal to the Idaho Human Right’s Commission.