



## Attachment 4 Madrone Terrace Appeal and Grievance Procedure



### DEFINITIONS.

“Complainant” is defined as any resident or prospective resident in the project whose rights, duties, welfare, or status are or may be adversely affected by management’s action or failure to act and who file a grievance with management with respect to such action or failure to act. Complainant is referred to in this procedure as “complainant,” “you” or “tenant.”

“Grievance” is defined as any dispute with respect to management action or failure to act in accordance with lease requirements, or any management action or failure to act involving the interpretation or application of management regulations, policies, or procedures which adversely affects the rights, duties, welfare, or status of the complainant.

It is the policy of management that all residents’ grievances be given complete and objective consideration. Since, on rare occasions, this may require reference of a problem to higher levels of authority, this procedure has been adopted to assure that the opportunity for full and fair consideration is given to all residents.

This procedure applies to both applicants and residents of Madrone Terrace. All residents are encouraged to use it without concern that it will reflect on their status as a resident.

Day-to-day contact and sincere communication between the manager and the residents are the most successful way to avoid misunderstandings and develop mutual respect. Should failings occur, the following steps shall be followed:

#### **A. Rights to a grievance hearing**

If you are a resident at Madrone Terrace and you believe that management has acted so that your rights or status are adversely affected, or you believe that management has not complied with the terms of the residential lease it entered into with you, then you are entitled to a hearing in accordance with this grievance and appeal procedure.

You may also request a hearing if you have a complaint about another tenant concerning your or others’ health and safety or if the complaint in reference to the other tenant involves the maintenance and management of the project.

If you applied for a unit and were rejected, you also have the right to request a hearing.

The grievance and appeal procedure does not apply if:

1. You have been given a notice to vacate because:
  - a. you are causing or permitting substantial damage to your unit;
  - b. you are using your unit for unlawful purposes; or
  - c. you have created or maintained an imminent threat to your health and safety or that of others.
2. You are disputing whether the terms and conditions in the lease are valid or proper.

## **B. Disputed rent or other charges**

1. If the grievance involves the amount of rent or other charges that management claims are due, you must pay the amount in dispute to management, unless management waives the requirement. You must continue to pay all rent and charges not in dispute as they become due.
2. If you fail to pay or deposit the funds as required, the hearing officer or panel may determine that you have waived your right to a formal hearing. If the hearing officer or panel decides that you have waived your right to a hearing you can still resolve your grievance in court.

## **C. Requesting a hearing**

1. **THE INFORMAL HEARING.** The goal of the informal hearing is to settle the problem without the need for a formal hearing. If you have a complaint and request a hearing, you will have an informal hearing with the individual designated by management to hear complaints (usually the resident manager). Once requested, the informal hearing must be held between you and management within five working days after your request. Furthermore, management is obliged to give you its decision on the matter in writing within five days of the hearing. If the decision is not in your favor or the problem is not settled, you are entitled to request a formal hearing. The written decision will also include the procedures you must follow if you want to appeal the decision in a formal hearing.
2. **PRESENT YOUR REQUEST FOR AN INFORMAL HEARING ON TIME.** You must personally present your grievance either orally or in writing to our office so that you and we may discuss your grievance informally. You must present your grievance within a reasonable time, not to exceed ten (10) working days after the reason for the grievance or dispute arose.

While you can present your grievance orally, it is better to state your grievance in writing. The grievance may be simply stated, but you must specify the particular ground(s) for the grievance and action or relief you seek.

We will prepare a written, dated, and signed summary of our discussion and answer to your grievance within a reasonable time, not to exceed fourteen (14) calendar days. We will mail or deliver one copy to you and keep one in your file. Our answer shall specify 1) the name of the hearing participant, 2) the date of the hearing, 3) the nature of the grievance, 4) the proposed disposition of the grievance and the specific reasons therefore, 5) your right to a formal hearing, and 6) the procedure by which you may request a formal hearing if you are not satisfied with the proposed disposition.

3. **THE FORMAL HEARING.** If you are dissatisfied with management's decision at the informal hearing, you have a right to a formal hearing. An impartial person who is mutually agreeable to you and management will conduct the formal hearing. In the event you cannot agree on such a person, a three-person hearing panel will be selected. You will select one person, management will select another, and the first two panel members will jointly select the third person. These three individuals will comprise the hearing panel. If the members appointed by you and management cannot agree on a third person, such member shall be appointed by an independent organization contacted by management, such as the American Arbitration Association.

4. **PRESENT YOUR REQUEST FOR A FORMAL HEARING ON TIME.** If you want a formal hearing, you may submit a written request to us within ten (10) working days after receiving the decision from the informal hearing. If you miss this 10-day deadline, the decision from the informal hearing will become final. This shall not, however, constitute a waiver of your right thereafter to contest the disposition of the grievance in an appropriate judicial proceeding.

As with the informal hearing, you must state the nature of your complaint or grievance, the reasons why you disagree with the decision resulting from the informal hearing and action or relief you seek.

5. **DO NOT MISS THE HEARING.** The hearing will be held no more than two weeks after management receives your request for a hearing. You will be given at least three calendar days' notice of the hearing date. If you or management's representative fail to appear, the hearing officer or panel can either declare that the absent party has waived the right to a hearing or reschedule the hearing for a later date.

#### **D. Procedures governing hearings**

The following procedures are intended to protect your right to a fair hearing:

1. You can bring as much evidence to the hearing as you think you need. However, the hearing officer or panel will determine if it relates sufficiently to the hearing to be considered, regardless of its admissibility in a court of law.
2. You can bring someone to represent you at the hearing, but you must also be present.
3. You and management can have witnesses to support your respective positions, with the right to cross-examine each other's witnesses.
4. You will be given the opportunity before the hearing to examine and copy at your expense all documents, records, and regulations that are relevant to the hearing.
5. The hearing will be private, unless you choose to have a public hearing.
6. Either party may request that the hearing be tape-recorded at their own expense.
7. At the hearing, you must present your side of the dispute and state what you want done. It will then be management's burden to justify its actions. If the hearing relates to an eviction or lease termination, management must also prove "good cause," as defined in the Program Regulations. Good cause includes, but is not limited to, nonpayment of rent, noncompliance with the terms of the lease, subletting, failing to maintain eligibility under the Program and remaining on the property after your tenancy is terminated.
8. Those present at the hearing must conduct themselves in an orderly fashion. Failure to do so is sufficient grounds for the hearing officer or panel to render an adverse decision to the unruly parties.
9. If you need an interpreter, you must provide your own. Failure to bring an interpreter will not be grounds for a postponement of the hearing.
10. During the pendency of the informal and formal hearing process and until the delivery of the written decision to you, management will extend the time period imposed pursuant to a formal eviction procedure arising out of the issues in dispute, including any court filing date required of you.

#### **E. Decision of the hearing officer or panel**

The hearing officer or panel must send a written decision to all parties within two weeks of the request for the hearing. The decision will be based solely upon a preponderance of the evidence presented at the hearing and in conformance with applicable laws and/or regulations. Provided that the decision is consistent with the applicable laws and regulations, it will be binding on all the parties.

If the decision is in your favor, project management must promptly take all actions necessary to carry out the decision or refrain from any action prohibited by the decision. If the decision is not in your favor, you must promptly comply with the decision, terminate your tenancy and move, if required, or take your complaint to court.

**F. Unresolved grievances or additional appeals**

If the parties and hearing officer or panel are unable to resolve the grievance or any party wishes to make an additional appeal, either party may direct their complaint to the local responsible agency for review and recommendation.

Upon a written request from the local agency for interpretation, JSCo shall be the final authority for purposes of interpretation of the procedures.

**G. Right to go to court**

Participation in any of the procedures described above will not waive, or affect in any manner whatsoever, any rights you or management may have to any judicial proceedings that may thereafter be brought on the matter.