Touchstone PROPERTY SERVICES

Standard Operating Procedure

Management Staff

Tenant Grievance Procedure

Date last updated: June 2018

I. PURPOSE

Touchstone Property Services ("TPS") Grievance Procedure (the "Grievance Procedure") has been adopted to provide a forum and procedures for tenants to seek the just, effective, and efficient settlement of Grievances against TPS.

II. APPLICABILITY

A. The Grievance Procedure shall be applicable to all individual Grievances (as defined below) between a tenant and TPS, except as provided in Article II.B and C. below.

B. 1. The U.S. Department of Housing and Urban Development ("HUD") has issued a due process determination that the laws of the State of Ohio require that a tenant be given the opportunity for a hearing in a court that provides the basic Elements of Due Process (as defined below) before eviction from a dwelling unit. Therefore TPS has elected to exclude from the Grievance Procedure any Grievance concerning a termination of tenancy or eviction that involves:

(i.) any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of TPS; or

(ii.) any Drug-Related Criminal Activity (as defined below) on or off such premises.

2. Since HUD has issued a due process determination, TPS shall evict the occupants of the dwelling unit through the judicial eviction procedures that are the subject of the due process determination. In these cases, TPS shall not provide the opportunity for a hearing under the Grievance Procedure.

C. The Grievance Procedure shall not be applicable to disputes between tenants not involving TPS, or to class Grievances. The Grievance Procedure is not a forum for initiating or negotiating policy changes between a group or groups of tenants and TPS. Accordingly, the Hearing Officer appointed to hear any individual Grievance will have no authority to change any provision of the lease agreement, the Grievance Procedure or any other policy or procedure of TPS, or the application of any law or HUD regulation.

III. REQUIREMENTS

This Grievance Procedure shall be incorporated by reference in all lease agreements entered into by and between TPS and individual tenants whether or not so specifically provided in such leases. TPS shall furnish each tenant and resident organization with a copy of the Grievance Procedure.

IV. DEFINITIONS

A. GRIEVANCE: Any dispute which a tenant may have with respect to the TPS action or failure to act in accordance with the individual tenant's lease agreement or TPS rules and regulations which adversely affect the individual tenant's rights, duties, welfare or status.

B. GRIEVANT: Any tenant whose Grievance is presented to a TPS Property Management Office in accordance with Sections V and VI of the Grievance Procedure.

C. DRUG-RELATED CRIMINAL ACTIVITY: The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use a

controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. section 802).

D. ELEMENTS OF DUE PROCESS: An eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:

1. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;

2. Right of the tenant to be represented by counsel;

3. Opportunity for the tenant to refute the evidence presented by TPS including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have; and

4. A written decision on the merits.

E. HEARING OFFICER: A person selected in accordance with Section VI of this Grievance Procedure to hear Grievances and render a decision.

F. TENANT: The adult person (or persons) (other than a live-in aide):

1. who resides in the unit, and who executed the lease with TPS as lessee of the dwelling unit, or, if no such person now resides in the unit,

2. who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

G. RESIDENT ORGANIZATION: Includes a resident management corporation.

V. INFORMAL SETTLEMENT OF GRIEVANCE

Any Grievance shall be personally presented, in writing, to TPS at the TPS Property Management Office where the tenant resides, within ten (10) days following the action or failure to act about which the tenant is complaining. Under no circumstances shall TPS refuse to accept Grievance forms when presented by a tenant or a tenant's representative. Grievance and hearing request forms shall be available at TPS's Central Housing Management Office and at all TPS Property Management Offices. Upon presentation of any written Grievance, TPS office personnel shall date stamp the written Grievance and the manager shall arrange an informal conference with the tenant to discuss the Grievance and attempt to settle it without a hearing. A summary of the discussions during such conference shall be prepared within twenty (20) days following the date of the conference, and one copy shall be given to the tenant, one shall be given to the tenant's representative, if any, and one copy retained in TPS's tenant file. The summary shall specify the names of the participants, the date of the conference, the nature of the proposed disposition of the Grievance and the specific reasons for the manager's decision, and shall specify the procedures by which a hearing under Section VI may be obtained if the Grievant is not satisfied.

VI. PROCEDURES TO OBTAIN A HEARING

A. REQUEST FOR HEARING: The Grievant shall submit a written request for a formal hearing to TPS at the TPS Property Management Office where the tenant resides or at TPS's Central Housing Management Office within ten (10) days following receipt of the written summary of discussion pursuant to Section V, or if no such written summary was delivered, within thirty (30) days after the filing of a Grievance. The written request shall specify (1) the reasons for the Grievance, and (2) the action or relief sought.

B. SELECTION OF HEARING OFFICER: A Grievance hearing shall be conducted by an impartial person appointed by TPS other than the person who made or approved the TPS action under review or a subordinate of such person.

1. The permanent appointments of persons who shall serve as Hearing Officers shall be governed by the following procedures:

   (a) TPS shall nominate a slate of persons to sit as permanent Hearing Officers. These persons may include, but may not necessarily be limited to TPS staff members, tenants or other responsible persons in the community who are familiar with HUD regulations and TPS policies and procedures.

   (b) The slate of potential appointees shall be submitted to all TPS resident organizations for written comments. Written comments from the resident organizations shall be considered by TPS before appointments are made final. Objections to the appointment of a person as a Hearing Officer must be considered but do not disqualify the person from being appointed.

   (c) On final appointment, the persons appointed and resident organizations shall be informed in writing of the appointments. A list of all qualified Hearing Officers will be kept at the TPS Central Housing Management Office and be made available for public inspection at any time during normal business hours.

2. The designation of Hearing Officers for particular Grievance hearings shall be governed by the following provisions:

   (a) All hearings will be held before a single Hearing Officer.

   (b) Appointments to serve as a Hearing Officer with respect to a particular Grievance shall be made by TPS.

   (c) No member of the TPS staff may be appointed as a Hearing Officer in connection with a Grievance contesting an action which was either

made or approved by the proposed appointee, or which was made or approved by a person under whom the proposed appointee works or serves as a subordinate.

(d) No person shall accept an appointment, or retain an appointment, once selected as a Hearing Officer, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as Hearing Officers must disqualify themselves from hearing Grievances that involve personal friends, relatives, persons with whom they have any business relationship, or Grievances in which they have some personal interest. Further, such persons are expected to disqualify themselves if the circumstances are such that a significant perception of partiality exists. If a Grievant fails to object to the designation of the Hearing Officer on the grounds of partiality at the beginning of or before the hearing, such objection is deemed to be waived and may not be made later. In the event that a Hearing Officer fails to disqualify himself or herself as required in this Grievance Procedure, TPS will remove the Hearing Officer from the list of persons appointed for such purposes, invalidate the results of the Grievance hearing in which such person should have, but did not disqualify himself or herself, and schedule a hew hearing with a new Hearing Officer.

C. FAILURE TO REQUEST A HEARING: If the Grievant fails to request a hearing in accordance with this Section, then TPS's disposition of the Grievance under Section V shall become final. The failure to request a hearing shall not constitute a waiver by the Grievant of his or her right thereafter to contest TPS's action in disposing of the Grievance in an appropriate judicial proceeding.

D. HEARING PREREQUISITE: All Grievances must have been personally presented in writing pursuant to the informal Grievance procedure described in Section V as a condition of proceeding to a hearing under this section. If the Grievant shall show good cause to the Hearing Officer why he or she failed to proceed in accordance with Section V, the Hearing Officer may waive the provisions of this subsection.

E. SCHEDULING OF HEARINGS: Upon Grievant's compliance with subsections A, D and E of this section, a hearing shall be scheduled by the Central Housing Management Office for a time and place reasonably convenient to the Hearing Officer, the Grievant and the TPS Property Management representative. A written notification specifying the time, place and procedures governing the hearing shall be delivered to Grievant and Grievant's representative (if TPS has been notified that the Grievant will have a representative at the hearing), and the appropriate TPS officials. The hearing shall take place not later than ninety (90) days after presentation of the written request for the formal hearing. If the hearing is not conducted within such ninety (90) day period, or by such later date as may be requested by the Grievant in writing, then the Grievance shall be resolved in accordance with the position stated by the Grievant in the written request for hearing. Any Grievance resolved in the Grievant's favor as a result of TPS's failure to schedule a hearing in accordance with this paragraph shall be final and binding upon TPS, and no appeal will be permitted.

VII. PROCEDURES GOVERNING THE HEARING

A. The hearing shall be held before a Hearing Officer.

B. The Grievant shall be afforded a fair hearing that shall include:

1. The opportunity to examine before the Grievance hearing any TPS documents, including records and regulations that are directly relevant to the hearing. The Grievant shall be allowed to copy any such document at the Grievant's expense. If TPS does not make the document available for examination upon request by the Grievant, TPS may not rely on such document at the Grievance hearing.

2. The right to be represented by counsel or other person chosen as the Grievant's representative, and to have such person make statements on the Grievant's behalf.

3. The right to a private hearing unless the Grievant requests a public hearing.

4. The right to present evidence and arguments in support of the Grievant's Grievance, to oppose evidence relied upon by TPS and to cross-examine all witnesses upon whose testimony or information TPS relies; and

5. A decision based solely and exclusively upon the facts presented at the hearing.

C. The Hearing Officer may render a decision without proceeding with the hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.

D. If either the Grievant or TPS fails to appear at a scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for a period not to exceed five (5) business days or may make a determination that the missing party has waived its right to a hearing. The Hearing Officer shall notify both the Grievant and TPS of the determination. A determination that the Grievant has waived his or her right to a hearing shall not constitute a waiver of any right the Grievant may have to contest TPS's disposition of the Grievance in an appropriate judicial proceeding.

E. At the hearing, the Grievant must first make a showing of an entitlement to the relief sought and thereafter TPS must sustain the burden of justifying TPS's action or failure to act against that which the Grievance is directed.

F. The hearing shall be conducted informally by the Hearing Officer. Both verbal and/or documentary evidence pertinent to the facts and issues raised by the Grievance may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer shall require TPS, the Grievant, legal counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate, in the sole and absolute discretion of the Hearing Officer.

G. The Grievant or TPS may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

H. If the Grievant has given TPS advance notice of the Grievant's need for accommodation as a person having disabilities, TPS shall provide reasonable accommodation for such person so as to permit that person to participate in the hearing. Reasonable accommodation shall include, but shall not be limited to, qualified sign language interpreters, readers, accessible locations, or attendants. If the Grievant is visually impaired, and has given advance notice to TPS of such impairment, any notice to Grievant that is required under this Grievance Procedure shall be in an accessible format.

VIII. DECISION OF THE HEARING OFFICER

A. The Hearing Officer shall prepare a written decision, together with the reasons for the decision, within thirty (30) days after the hearing unless such time is extended by agreement of the Grievant and TPS. A copy of the decision shall be sent to the Grievant and TPS. TPS shall retain a copy of the decision in the Grievant's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by TPS and made available for inspection by a prospective Grievant, his or her representative, or Hearing Officer. In the event the Hearing Officer shall not prepare a written decision within thirty (30) days as required by this paragraph, the Grievant may, at his election, be afforded a new hearing before a new Hearing Officer, or serve written notice upon TPS that a written decision has not been issued in accordance with the provisions of this paragraph. If the Grievant elects to invoke his right to a new hearing, TPS shall schedule such hearing within ten (10) days. TPS's failure to schedule a hearing within such ten (10) day period shall result in a disposition of the Grievance in favor of the Grievant in accordance with the Grievant's written request for hearing. If Grievant elects to give written notice of the Hearing Officer's failure to prepare a written decision, and such failure is not corrected within ten (10) days of

the receipt by TPS of such written notice, then the Grievant's Grievance shall be resolved in favor of the Grievant as stated in the Grievant's written request for hearing.

B. The decision of the Hearing Officer shall be binding on TPS which shall take all actions, or refrain from any actions, necessary to carry out the decision, within forty-five (45) days from the date of the decision unless TPS's Board of Commissioners determines and notifies the Grievant within the forty-five (45) day period of its determination, that:

1. The Grievance does not concern TPS action or failure to act in accordance with or involving the Grievant's lease or TPS rules and regulations, which adversely affect the Grievant's rights, duties, welfare or status; or

2. The decision of the Hearing Officer is contrary to applicable federal, state or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and TPS or exceeds the authority granted to Hearing Officers under Section II.C. of this Grievance Procedure.

C. A decision by the Hearing Officer or TPS Board of Commissioners in favor of TPS or which denies the relief requested by the Grievant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, any rights the Grievant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

IX. RESPONSIBILITY FOR RENT PAYMENTS AND OTHER CHARGES

Before a hearing is scheduled in any grievance involving the amount of rent as defined in 966.4(b) that TPS claims is due, the Grievant must pay an escrow deposit to TPS. When a family is required to make an escrow deposit, the amount is the amount of rent that TPS states is due and payable as of the first of the month preceding the month in which the Grievant’s act or failure to act took place. After the first deposit, the Grievant must deposit the same amount monthly until the Grievant’s complaint is resolved by decision of the Hearing Officer.

Unless TPS waives the requirement due to financial hardship (as prescribed in Section 5.630 or Section 5.615 of the regulations, the Grievant's failure to make the escrow deposit will terminate the grievance procedure. A Grievant's failure to pay the escrow deposit does not waive the family's right to contest in any appropriate judicial proceeding TPS's disposition of the grievance.