

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 6

DATE: April 20, 1999

STAFF: Darin Atteberry

SUBJECT:

Resolution No. 17 of the Fort Collins Housing Authority Reaffirming the Policies and Procedures of the Housing Authority Related to the Federal Rehabilitation Act of 1973 and Federal Americans with Disabilities Act and Designating Coordinators of Compliance With the Same.

RECOMMENDATION:

Staff recommends adoption of the Resolution.

EXECUTIVE SUMMARY:

The federal Rehabilitation Act of 1973 (the "Rehab Act") requires entities receiving federal funds with fifteen or more employees to establish a process for hearing grievances regarding Rehab Act compliance, and to designate an individual to coordinate that process. The Board of Commissioners for the Fort Collins Housing Authority has acted in the past to address the requirements of the Rehab Act, most recently designating the previous Executive Director as Coordinator of the related grievance process. As a result of ongoing communications with customers of the Housing Authority, staff has reviewed the existing administrative grievance policy, and recommends that the Board adopt this resolution renaming the policy as the "Section 8, Public Housing, and Rehab Act/ADA Grievance Policy," in order to put the public on notice of the policy's designation as the Housing Authority's Rehab Act Grievance Policy.

In addition, with the changes that have occurred in the management of the Housing Authority in recent months, staff recommends that the Board reaffirm its previous appointment of the Executive Director as the Coordinator of the Rehab Act Grievance Policy, and add the Assistant to the Executive Director as an additional Coordinator.

Finally, the federal Americans with Disabilities Act ("ADA") requires public entities employing fifty or more persons to establish an ADA Grievance Procedure and designate a coordinator for that process. While the Housing Authority is not currently required to meet this requirement, in order to proactively address any potential ADA claims that may arise, staff is recommending that the Board also designate the grievance policy to be renamed as intended for resolution of ADA grievances, and designate the Executive Director and Assistant to the Executive Director as ADA Coordinators for the Housing Authority.

RESOLUTION NO. 17
OF THE BOARD OF COMMISSIONERS
OF THE FORT COLLINS HOUSING AUTHORITY
REAFFIRMING THE POLICIES AND PROCEDURES
OF THE HOUSING AUTHORITY RELATED TO
THE FEDERAL REHABILITATION ACT OF 1973 AND
FEDERAL AMERICANS WITH DISABILITIES ACT
AND DESIGNATING COORDINATORS OF COMPLIANCE WITH THE SAME

WHEREAS, the Board of Commissioners is strongly committed to complying with the requirements of the federal Rehabilitation Act of 1973 ("Rehab Act"), and with the federal Americans with Disabilities Act ("ADA"); and

WHEREAS, the Rehab Act and related U.S. Department of Housing and Urban Development regulations require the Board to establish a grievance procedure for the consideration and resolution of grievances arising under that law, and to appoint at least one employee to coordinate its efforts to comply with and carry out the Rehab Act; and

WHEREAS, the ADA requires public entities employing 50 or more persons to establish a grievance procedure for the consideration and resolution of grievances arising under that law, and to appoint at least one coordinator responsible for coordination of its efforts to comply with and carry out the ADA; and

WHEREAS, although the ADA requirement does not currently apply to the Housing Authority because it does not now employ 50 or more persons, it may in the future apply to the Housing Authority, and proactive efforts to comply with this requirement may enhance the Housing Authority's ability to address the concerns of persons with disabilities; and

WHEREAS, the Board did previously adopt a grievance procedure as part of its administrative policies, and previously appointed as coordinator of its grievance process for the Rehab Act the Executive Director of the Housing Authority; and

WHEREAS, in order to eliminate any confusion regarding whether the previously adopted policies and procedures were intended to serve as the grievance procedure required by the Rehab Act and described in the ADA, and regarding the identity of the designated coordinators for the purposes of the Rehab Act and ADA, the Board desires to reaffirm and clarify those designations with this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE FORT COLLINS HOUSING AUTHORITY as follows:

Section 1. The Board hereby reaffirms and adopts the Grievance Procedure, attached hereto as Exhibit "A" and incorporated herein by this reference, as the Housing Authority procedure for the review and resolution of non-employment-related grievances against the Housing Authority under the federal Rehabilitation Act of 1973 and the federal Americans with Disabilities Act.

Section 2. The Board hereby designates Section 11 of the Personnel Policies Employee Handbook previously adopted by the Board on December 18, 1996, as amended by the Board with the adoption of Resolution No. 11, on January 19, 1999, entitled "Grievance Procedure and Issue Resolution," as the Housing Authority procedure for the review and resolution of employment-related issues arising under the federal Rehabilitation Act of 1973 and the federal Americans with Disabilities Act.

Section 3. The Board hereby restates and reaffirms its previous designation of the Executive Director of the Housing Authority as the Coordinator of the Authority's federal Rehabilitation Act of 1973 and federal Americans with Disabilities Act Grievance Procedure, further designates the Assistant to the Executive Director of the Housing Authority as an additional Coordinator of the Authority's federal Rehabilitation Act of 1973 and federal Americans with Disabilities Act Grievance Procedure, and designates as the official address for communicating grievances under the Rehab Act or the ADA the following: Executive Director (Rehab Act/ADA Coordinator), Fort Collins Housing Authority, 1715 Mountain Avenue, Fort Collins, Colorado, 80521; (970) 221-5484.

Passed and adopted at a regular meeting of the Board of Commissioners of the Fort Collins Housing Authority, held this 20th day of April, A.D. 1999.

Chairperson

ATTEST:

Secretary

**SECTION 8, PUBLIC HOUSING AND
REHABILITATION ACT/ADA GRIEVANCE PROCEDURE**

1. DEFINITIONS

- (A) "Grievance" shall mean any dispute which a tenant may have with respect to a PHA action of failure to act in accordance with the individual tenants' lease or PHA regulations which adversely affect the individual tenants' right, duties, or welfare of status, or which are alleged to constitute a violation of the federal Rehabilitation Act of 1973, Americans with Disabilities Act, or other related laws.
- (B) "Grievant" shall mean any tenant whose grievance is presented to the PHA or at the project management office in accordance with Section (2) and (3) (A) of this Procedure or any other person receiving housing services of any kind from the Housing Authority whose Rehabilitation Act or ADA grievance is presented to the in accordance with Section (2) and (3) (A) of this Procedure.
- (C) "Hearing Officer" shall mean a person selected in accordance with Section (3) of this Procedure to hear grievances and render a decision with respect thereto.
- (D) "Hearing Panel" shall mean a panel selected in accordance with Section (3) of this Procedure to hear grievances and render a decision with respect thereto.
- (E) "Tenant" shall mean the adult person (or persons) (other than a live in aid): (1) who resides in the unit and who executed the lease with the Housing Authority as lessee of the dwelling unit, or if no such person now resides in the unit, (2) the remaining head of the household of the tenant family residing in the dwelling unit covered by this Procedure.

2. INFORMAL SETTLEMENT OF GRIEVANCE

- (A) Any grievance shall be presented orally in person, or in writing, to the PHA office of to the office of the project in which the grievant resides, or, in the case of a Rehabilitation Act or ADA grievance, to the Executive Director or Assistant to the Executive Director of the PHA, so that the grievance may be discussed informally and settled without a hearing.
- (B) The grievance must be presented by the grievant or his representative within a reasonable time, not in excess of ten (10) days of the PHA action, or failure to act, which is the basis of the grievance.
- (C) The PHA shall schedule the informal discussion, referred to in subsection (A) above, as promptly as possible, time and place reasonably convenient to the grievant, and

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. In such proceedings, the PHA shall, by stipulation or other appropriate means, be limited to invoking against the grievant the grounds originally relied on by the PHA in its proposed disposition of the complaint or grievance.

7. PHA EVICTION ACTIONS

If a tenant has requested a hearing in accordance with section (3) on a complaint involving a PHA notice of termination of the tenancy and the Hearing Officer or Hearing Panel upholds the PHA's action to terminate the tenancy, the PHA shall not commence an eviction action in the State or local court until it has served a notice to vacate on the tenant, and the notice to vacate shall not be issued prior to the decision of the Hearing Officer of the Hearing Panel having been mailed or delivered to the grievant except that if such notice shall be served subsequent to the provision of section (2) above and prior to the provisions of part (D) of section (3) above such notice shall be considered waived. Such notice to vacate must be in writing and specify that if the tenant fails to quit the premises within the applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate action will be brought against him and he may be required to pay court costs and attorneys fees.

8. INAPPLICABILITY OF GRIEVANCE PROCEDURE

The provisions of this grievance procedure are not applicable to any grievance concerning an eviction or termination of tenancy based upon:

- (A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA; or
- (B) Any drug related criminal activity on or near the premises of the PHA.

The U.S. Department of Housing and Urban Development has issued a Due Process Determination for the State of Colorado which authorizes the PHA to immediately commence an eviction action, without first providing an opportunity for an administrative grievance hearing, in accord with State law based on any of the grounds stated in this section.