

## **7-2 Process for Default Contested Case Hearings.**

All default hearings are conducted in compliance with the Wyoming Administrative Procedures Act and are contested cases for which the rules and processes are set forth herein. All requests for hearings and subsequent documents shall be submitted and filed with the Housing Department, and all records related to the contested case hearing shall be maintained by the Housing Department.

### **1 Notice of Default**

When the Housing Department deems an owner to be in default of a special restriction, the Housing Department shall notify the owner with a Notice of Default Letter.

- a. The Notice of Default shall be sent to the owner via U.S. Mail certified with return receipt requested and via email, if an email address is known. The letter will be considered delivered on the date it is sent.
- b. The owner shall have thirty (30) days from the date of the Notice of Default to:
  - i. Cure the default,
  - ii. Request a default hearing of the Jackson/Teton County Housing Authority Board, or
  - iii. Provide the Housing Department with a "Letter of Intent to Sell" the home or unit in accord with the special restriction.
- c. The Housing Department shall determine what constitutes a cure of the default based upon the special restriction and the circumstances of the owner.

### **2 Request for Default Hearing**

In the event the owner fails to cure the default or desires to challenge the default identified by the Housing Department, the owner may request a hearing before the Jackson/Teton County Housing Authority Board (JTCHA) to determine the merits of the allegations of the default.

- a. To request a hearing, the owner must submit a "Request for Default Hearing" form to the Housing Department within the thirty (30) day cure period.
- b. A fee shall be charged by the Housing Department for such "Request for Default Hearing." The fee amount will be set annually in a separate document titled "Annual Fees" to be updated and published by the Housing Department.

### **3 Failure to Respond to Default**

Should the owner fail to respond to the Notice of Default, the Housing Department will consider the non-action or failure to respond as a breach of default and shall take steps to

enforce the default in accord with the applicable Special Restriction and/or the Housing Rules and Regulations. Enforcement of the breach or violation includes but is not limited to forcing the sale of the home or unit.

#### **4 Default Hearing**

- a. JTCHA may designate a Hearing Officer and sign an “Order Appointing the Hearing Officer.”
- b. Within thirty (30) days of the signed Order, the Hearing Officer will issue a scheduling order, which shall include the Official Notice of Hearing, and deadlines for the parties to submit evidentiary documents, exhibits, witness lists, and/or pre-hearing memorandums.
- c. Evidentiary documents, exhibits, witness lists, and/or pre-hearing memorandums, to include a written statement of facts, conclusions of law, and proposed order shall be exchanged by the parties, filed with the Housing Department in the contested case proceeding, submitted to the Hearing Officer and to the JTCHA, at least fifteen (15) days prior to the hearing date. Any document or witness not included in these submissions by the deadline shall not be raised at the hearing and shall not be admitted into evidence at the hearing.
- d. Hearing proceedings may be recorded, but are not required to be transcribed. If either party wishes to have a court reporter present to transcribe a hearing, all associated costs shall be paid by the party unless the parties agree to share costs.
- e. All witnesses which provide testimony at the hearing will be sworn in under oath by either a court reporter if one is present, the Hearing Officer, and if no Hearing Officer, the JTCHA Chair. The parties shall be permitted to cross-examine witnesses, and the JTCHA and the Hearing Officer shall have the opportunity to ask questions of the witnesses and Housing Department staff.
- f. The Housing Department’s determination the Notice of Default is presumed to be correct, and the burden of proof shall be on the complainant, not on the Housing Department.
- g. If the owner requires an interpreter, the Housing Department will make arrangements to provide one and bear the costs.
- h. If the complainant fails to appear at the hearing, the JTCHA may make a determination to postpone the hearing, can proceed to review the evidence based upon the written submissions, or can deem the failure to appear as a breach of default.

#### **5 JTCHA Deliberation and Decision**

- a. **Deliberation** The Hearing Officer or JTCHA Chair, if no Hearing Officer is present, shall close the evidentiary hearing, and the Housing Authority Board will commence deliberation in public to include the following:

1. The JTCHA will examine the special restriction, the evidence presented in writing, and any testimony provided at the hearing and shall make a determination on the allegations of the Notice of Default based upon the preponderance of evidence standard of review.
2. The burden of proof shall be on the owner to refute the alleged default.

b. JTCHA Decision will be to either:

- a. Affirm the Housing Department's Notice of Default. The Housing Department would proceed to exercise its remedies against the owner according to the special restriction or ground lease recorded on the property, or
- b. Reject the Notice of Default of the Housing Department and no further action would be pursued for the specific alleged default under the special restriction or ground lease recorded on the property.

c. JTCHA Decision and Motion. The JTCHA shall make a motion in the affirmative {eg: I move to affirm the Housing Department's assertion that the owner (owner's name) of (address) is in default of the Special Restriction recorded on the property pursuant to the Notice of Default.} The motion shall receive a second. JTCHA will enter into discussion on the motion and vote. If the motion carries, the JTCHA affirms the Notice of Default. If the motion fails, the JTCHA has decision

d. Order of Decision. The prevailing party will draft the Findings of Fact, Conclusions of Law and Order, which shall set forth the Board's decision, and exchange the same with the Hearing Officer, to be reviewed and approved in a timely manner no later than sixty (60) days following the hearing date, by the JTCHA at a subsequent meeting of the JTCHA, which shall be properly noticed and open to the public. The Order shall be filed in the contested case file with the Housing Department. No appeal of the JTCHA decision shall be made to the Jackson Town Council or the Board of County Commissioners. Any appeal of the JTCHA Order shall be to the District Court of Teton County, Wyoming, unless otherwise stated in the Special Restriction.

## **7-3 Process for Exception Hearing Process.**

### **1 Request for Exception**

A household may submit a "Request for Exception" to the Housing Department using the "Request for Exception" form with the required fee, which is specified in a separate "Annual Fees" document that is updated annually. "Requests for Exceptions" must be initiated and a final decision rendered prior to the start of a lottery that the applicant wishes to enter. The

Housing Manager will review and render a decision on the Request for Exception within fifteen (15) days from the date of submittal.

## **2 Request for Exception Hearing Process**

If the Request for Exception is denied by the Housing Manager, the applicant may request a hearing of the JTCHA.

a. Submit a Request for Hearing form with a fee to the Housing Department within fifteen (15) days of the date of denial of "Request for Exception." Hearings must be completed prior to the start of a lottery that the applicant wishes to enter.

b. Requests for Exception Hearings must contain the following information:

1. The particular ground(s) upon which it is based, including a copy of the Request for Exception and the Housing Manager's decision;
2. The action or remedy requested;
3. The name address, telephone number of the complainant and similar information of complainant's representative, if any;
4. Proof of notification of hearing request to the housing unit's Homeowners Association, if applicable; and
5. Appeal Fee.

## **3 Housing Department Review and Recommendation**

All requests for hearings will be reviewed by Housing Department for completeness and provided to the JTCHA Board within thirty (30) days with a recommendation for action, copied to the complainant and/or representative.

## **4 Hearing**

The hearing will be heard by the JTCHA Board at a properly noticed meeting scheduled at least thirty (30) days following the Housing Department's receipt of the "Request for Hearing" to ensure notice and due process.

## **5 Hearing Officer**

- a. JTCHA may designate a Hearing Officer and sign an "Order Appointing the Hearing Officer."
- b. If a Hearing Officer is designated, within thirty (30) days of the signed order, the Hearing Officer will send out a scheduling order (Official Notice of Hearing) and timeline.
- c. Hearings may be recorded and are not required to be transcribed. If owner wishes to have a hearing transcribed, all associated costs shall be paid by owner.

## **6 Hearing Process**

- a. JTCHA may designate a Hearing Officer and sign an “Order Appointing the Hearing Officer.”
- b. Within thirty (30) days of the signed order, the Hearing Officer will send out a scheduling order (Official Notice of Hearing) and timeline for the parties to submit evidentiary documents and a list of witnesses.
- c. Evidentiary documents and witness list along with a written statement of facts shall be submitted by each party to the opposite party fifteen (15) days prior to the hearing date.
- d. Hearings may be recorded and are not required to be transcribed. If owner wishes to have a hearing transcribed, all associated costs shall be paid by owner.
- e. All witnesses that provide testimony will be sworn in under oath by the court reporter, and if no court reporter, the Hearing Officer, and if no Hearing Officer, the JTCHA Chair. Both parties shall be permitted to cross-examine witnesses, and the JTCHA shall have the opportunity to ask questions of the witnesses and Housing Department staff.
- f. The Housing Department’s decision concerning the exception will be assumed correct, and the burden of proof shall be on the complainant.
- g. If the complainant fails to appear at the hearing, the JTCHA may make a determination to postpone the hearing, may make a determination based upon the evidence submitted, or may dismiss the matter for failure to appear.

## **7       JTCHA Decision Binding**

Based on the evidence considered at the hearing, the JTCHA will provide a decision by means of a motion and majority vote. The decision of the JTCHA shall be binding, and the Housing Department shall take all actions necessary to carry out the decision. No appeal of the JTCHA shall be made to the Town Council or County Commissioners. Any appeal shall be made to the District Court of Teton County, Wyoming.

## **8       Other Remedies**

The Housing Department shall have the right to enforce the provisions of these Rules and Regulations under any civil or criminal remedy provided under Wyoming Law.

## **7-4 Grievance Procedure**

### **a**

A grievance is any dispute that seller, buyer, or owner may have with the Housing Department with respect to an action or failure to act in accordance with the individual’s rights, duties,

welfare, or status. A grievance may be presented to the Housing Department under the procedures below.

## **1 Request for Grievance Form**

Any grievance must be presented in writing to the Housing Department on the “Request for Grievance” form and include:

1. The particular ground(s) upon which it is based;
2. The action or remedy requested;
3. The name address, telephone number of the complainant and similar information of complainant’s representative, if any; and
4. Grievance fee.

## **b. Housing Department Review and Decision**

- a. The Housing Department Housing Manager will review all “Requests for Grievances.”
- b. The Housing Manager shall issue a written letter summarizing the decision regarding the requested grievance within thirty (30) days of receipt of the “Request for Grievance.” The letter will be sent via U.S. mail certified return receipt requested and via email if an email address is known.
- c. The applicant may request a hearing of the JTCHA pursuant to Section 7-3.a.2. if the grievance decision of the Housing Manager is disputed.