**Eviction Procedure**

Listed below are the steps to be taken by all Authority staff involved in the eviction of tenants for rent delinquency or for cause.

1. **Rent Delinquency**Rent Becomes Delinquent:

If rent and other charges are not paid in full by the 7th of the month they will be considered delinquent.

**1.02** Delinquent Tenants Receive Notice to Vacate and Lease Termination Letter:

 On the 10th of each month site staff will send each delinquent tenant two notices:

* 14‑Day Lease Termination Letter
* Notice to Vacate for Non‑payment of Rent The Notice to Vacate is sent in accordance with State Law, and the Lease Termination Letter is a HUD requirement, but the two notices run concurrently.

**1.03** Method of Serving Notices

Site staff may send the two communications referenced above by first class mail, by Certified Mail, hand delivered to an adult household member, or by taping them to the tenant's door.

Should proof of service be at issue in Court, the return receipt from Certified Mail is usually considered proof of attempt to deliver even if returned unopened.

**1.04** Tenants Who wish to Pay Before the 14‑day Notice Expires:

Should tenants come forward to pay after having received the 14‑day lease termination letter, site staff is authorized to enter into Repayment Contracts (As described in Section 4 of the Rent Collection Procedure) so long as the tenants were not delinquent as of end of the prior month.

For any tenants who were delinquent in the prior month, the only way to avoid eviction is to pay the entire amount owed.

Since site staff will be working to encourage delinquent tenants to pay rather than face eviction during the 14‑day period, many rental delinquents will take this option.

Site staff will be reviewing the files of all delinquent tenants to check for possible rent abatements. See Section 3 of the Rent Collection Policy for further information on rent abatements.

* 1. Preparing Eviction Paperwork

On the 26th of the month , management staff will prepare the following package for all tenants who have not either paid in full or signed a Repayment Contract:

 Court paperwork for eviction; and

 List of Tenants (Exhibit 3) with the appropriate

 Forms attached, and the docket numbers left blank.

The original of this package will be hand delivered by site staff to the Director of Operations no later than the 27th of the month.

* 1. Filing the Eviction Cases in Court

The Legal Department will review the paperwork submitted by the site staff for correctness and completeness, and any deficient work will be returned to the site for correction with a copy of the covering memo sent to the appropriate Area Administrator.

Using the site's lists, the Legal staff will request checks to pay the Court costs.

By the 28th of the month, the Legal staff will file the cases for possession of premises with the appropriate Court. At this point the cases will have left the Authority system and will be a part of the court system.

The Court will issue a docket number for each case. Legal will record these docket numbers and send copies of the lists, now with the docket numbers filled in, to the appropriate Managers along with the Notice of Filing Letter (Exhibit 5), which gives the date for the Court Hearing.

Project staff will review the Notice of Filing Letters carefully and schedule personnel to cover every hearing date.

Staff of the Legal Department will prepare the Court Date List (Exhibit 6) after the docket numbers are issued.

**1.07 Court Serves Tenant With Rule for Possession of Premises:**

The Court will serve every tenant filed for eviction with a legal notice about the eviction.

**1.08 Preparing for the Court Hearing:**

A day or two before the Hearing the site staff member who has been designated to represent the site in Court will review the files. Since all site staff will have been preparing cases, this step is quite important to avoid any surprises or embarrassment in Court. All the files will be taken to Court.

The day before Court, the Legal staff will take copies of the court schedule forms to Court to ensure that all the correct jackets are pulled for the subsequent Hearings.

The day before Court is the last day site staff are authorized to accept payment from delinquent tenants. Payment must be in full, including Court Costs. The site staff must telephone the legal office to inform them of the last minute payers, and will, within two days submit copies of the receipts for such payments to both the Legal and Housing Management offices. Site staff are not required to accept any payments that are tendered after eviction cases have been filed in Court.

**9. The Court Hearing**

Immediately before the Hearing, the site staffer designated to appear in Court will review the List to ensure that the cases of any tenants who have paid in full are not carried forward, but are withdrawn by Authority.

The Authority will be represented in Court by one of its attorneys, but presenting the evidence in eviction cases always rests on the Management staff. The Housing Manager or designee will be prepared to discuss the facts of each case, such as:

 The amount delinquent

 The date of last payment (and whether complete or partial)

 The type of delinquency (rent, maintenance charges, etc)

 The dates and types of notices sent

 The efforts made by Authority staff to avoid eviction (During the Amnesty Month, for example)

Management staff will be able to refer to the files of all tenant scheduled for Hearings. Staff should not volunteer information, but should simply answer any questions asked fully and truthfully.

**1.10** Court Issues Rules Absolute for Possession:

If the cases and staff are well prepared, the Authority will be granted a judgment for the amount owed and possession, in other words, permission to reclaim the rental unit.

**1.11** Request for Warrant for Possession

After the Court grants possession, the Authority Legal staff will submit the appropriate documents to the eviction clerk, who will prepare the request to exercise the judgment and submit it to the Court.

At the same time, the Legal Office will request a check from Accounting for the legal expenses to carry out the evictions.

**1.12** Delinquent Tenants Receive Request to Move Letter

The day after the Hearing the site staff will send out or deliver the Request to Move Letter (Exhibit 9) to all tenants that the Court ruled against. Many tenants will move voluntarily when they know eviction is inevitable, saving money and trouble.

**1.13** Eviction Letter Sent to Constable's Office

Also the day after the Hearing, Legal Department staff will send a check and an Eviction Letter (Exhibit 10) to the Constable's Office confirming those tenants to be evicted.

**1.14** Constable Confirms Receipt of Warrants for Possession:

Within 24 hours of receiving documentation (Exhibit 11) from the Court, the Constable's Office will call the Legal Department to confirm the evictions.

**1.15** Final Check on Eviction Day:

Before the Constables begin actually evicting families the site staff will do one last check of the Warrants to ensure that the tenant names, addresses and docket numbers are correct and that the tenants have neither moved nor paid in full.

**16. Maintenance Staff and Evictions**

The Maintenance staff accompanying and assisting the Constable's Deputy must complete the Ejectment Report Form (Exhibit 12), for each unit where actual ejectment is accomplished. The Forms must be submitted to the site manager at the end of the day.