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COMMANDER NAVY INSTALLATIONS COMMAND
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CNICINST 11101.3
N9
23 Apr 2021

CNIC INSTRUCTION 11101.3

From: Commander, Navy Installations Command

Subj: NAVY PUBLIC PRIVATE VENTURE DISPUTE RESOLUTION PROCESS

Ref: (a) 10 U.S.C. § 2890
(b) 10 U.S.C. § 2894
(c) 10 U.S.C. § 2884
(d) National Defense Authorization Act Fiscal Year 2021 Section 2811 (g) and (h)
(e) Assistant Secretary of Defense memo of 12 Feb 21
(f) ASSTSECNAVEIE WASHINGTON DC memo of 6 Feb 21
(g) DoD Military Housing Privatization Initiative Tenant Bill of Rights
(h) COMNAVFACSYSCOM WASHINGTON DC ltr 11101 Ser AM/015 of 1 Mar 21
(i) CNIC M-11103.1
(j) USD (AT&L) memo of 16 Apr 14
(k) NAVSUPINST 4200.99C
(l) DON Desk Guide 5.11 - Government Purchase Card Program
(m) DON Simplified Acquisition Procedures Guide of Apr 08
(n) Federal Acquisition Regulation section 6.302-3

Encl: (1) Independent Dispute Resolution Investigator Description

1. Purpose. To provide standardized Public-Private Venture (PPV) Navy Housing processes and procedures for implementing the formal dispute resolution process, per references (a) through (g). This instruction provides consistent processes and guidance for the resolution of tenant disputes, and segregation of rents in conjunction with such disputes.

2. Background. The Department of Defense (DoD) Military Housing Privatization Initiative (MHPI) Tenant Bill of Rights was signed by DoD and all services to ensure oversight of their privatized housing programs to provide safe and suitable housing for Service Members and their families. Per references (a) and (b), reference (g) includes the right for tenants of PPV housing to use a formal dispute resolution process that may include rent segregation when requested and approved. Per references (e) and (h) the Universal Lease was distributed to Assistant Secretary of the Navy (Energy, Installations and Environment) (ASN (EI&E)) and Department of the Navy (DON) Housing PPV property managers or owners. The Universal Lease includes the PPV formal dispute resolution process. The MHPI companies have agreed to implement the formal dispute resolution process beginning 1 June 2021.

3. Scope and Applicability. The policies and procedures of this instruction become effective on 1 June 2021, and apply to Commander, Navy Installations Command (CNIC) headquarters (HQ), Navy Regions, installations, and those projects on joint bases where the Navy is a member of the PPV Limited Liability Corporation.

4. Policy. Per the Universal Lease, as represented in reference (e), enclosure (1), the formal dispute resolution process allows Service Members and their families who reside in privatized military housing to obtain prompt and fair resolution of housing disputes concerning rights and responsibilities in their lease agreement; including, maintenance and repairs, rental payments, displacement rights, lease termination, inspections/fees and charges. Military tenants living in PPV housing will be afforded the formal dispute resolution process. The formal dispute resolution process described in this instruction applies to PPV family and Unaccompanied Housing (UH), though some processes described may be updated for PPV UH tenants.

a. Attempt to Resolve at Lowest Level First. Issue resolution is encouraged at the lowest level possible. When a Service Member or their family has an issue with the PPV property manager or owner's responsibilities under their lease agreement, the tenant will first attempt to resolve with the PPV property manager or owner. If the tenant and PPV property manager or owner are unable to resolve, the tenant has the option to resolve the dispute through the informal dispute resolution process offered by the local Housing Service Center (HSC).

b. Informal Dispute Resolution. Per reference (i), the HSC offers an informal dispute resolution process, commonly known as issue resolution, to assist Service Members or their families in resolving complaints while residing in privatized housing. The overall process typically includes reviewing/researching the complaint, conducting an inspection, examining documentation, determining corrective actions as applicable, initiating cooperation, and fostering resolution between parties. Per reference (j), enterprise Military Housing (eMH) is the established DoD enterprise information management system and authoritative data source for housing operations. All tenant complaints received by the HSC are managed in eMH. The HSC will document all relevant actions, notes and inspection reports related to the dispute issues in the family housing module complaints component of eMH.

(1) If resolution is reached and all parties are satisfied, the HSC will follow-up with all parties 30 calendar days after the original complaint was filed and before closing the complaint. Once HSC staff have confirmed there are no outstanding or unresolved issues, the complaint will be closed.

(2) If resolution is not achieved, the HSC will inform the tenant of the formal dispute resolution process and provide reference (e), enclosure (1), exhibit A, the request form for Dispute Resolution Process, and explain the process as outlined in this instruction and on schedule 3 of the Universal Lease. A request for formal dispute resolution can only be determined to be eligible and complete if the tenant first attempted informal dispute resolution with the HSC.

c. Formal Dispute Resolution. An eligible tenant who decides to initiate the formal dispute resolution process is required to complete and submit the request form for Dispute Resolution Process to the local HSC. Within two business days after receiving a request form for Dispute Resolution Process, the HSC will review and determine the eligibility of the request and take the following action:

(1) If the HSC determines the tenant is not eligible to request formal dispute resolution process, the dispute is not an eligible housing dispute, or the request for dispute resolution does not contain sufficient information, then the HSC will provide a written notification to the tenant explaining the reasons for the ineligibility or the information needed for further consideration. The tenant may submit a revised request form for Dispute Resolution Process. All described deadlines associated with the dispute resolution process will start from the date of the HSC's receipt of an administratively complete request form for Dispute Resolution Process.

(2) If the HSC determines the request is complete and eligible for the dispute resolution process, the HSC will notify the tenant of receipt and simultaneously provide a copy of the request to the PPV property manager or owner, installation commanding officer (CO), business agreement manager (BAM), Region Commander (REGCOM), and Region Program Director (RPD) for Navy Housing (N93).

d. Available Legal Assistance. If available, Navy legal assistance may be provided to the Service Member or their family even though the formal dispute process does not require legal services. A private civilian attorney or other assistance may be obtained at the expense of the requesting party without reimbursement.

e. Deciding Authority. The REGCOM is designated by CNIC to serve as the deciding authority for all formal disputes in their Region. The deciding authority will issue a final written decision in the formal dispute resolution process and will use the process outlined in this instruction and in schedule 3 of the Universal Lease when deciding formal disputes. If a conflict of interest arises with the REGCOM serving as the deciding authority, a waiver request stating the conflict of interest should be sent via e-mail to CNIC N93 at NavyHousingHQ@navy.mil, to initiate identification and selection of an alternate RECOM to be the deciding authority.

(1) The deciding authority will identify, select, and fund, as appropriate, the independent dispute resolution investigator.

(2) The deciding authority will identify, select, and fund, as required, one or more professionals with specific subject expertise in the matter under dispute when the dispute involves maintenance or other facility-related matters.

(3) The deciding authority may grant an extension for an additional seven business days, if requested and necessary, to facilitate inspections. The extension request can be made by the

HSC, PPV property manager, owner, or tenant. The initial inspection turnaround time is seven business days, and the request approval must be in writing. The cost of any other additional reports or evidence gathered will be the responsibility of the requesting party.

(4) If a tenant does not grant access to the premises for an inspection outlined in this instruction, the deciding authority will terminate the request in writing with no decision rendered, and the specific issue of the dispute will not be eligible for future consideration in the formal dispute resolution process.

(5) The deciding authority will consider actions taken by the PPV property manager or owner to repair the premises during the dispute resolution process.

(6) The deciding authority will request and consider written recommendations and information relating to the dispute from each of the following: HSC, Installation Program Director (IPD), tenant, PPV property manager or owner, independent dispute resolution investigator, and subject matter experts (SME).

(7) The deciding authority will provide all written recommendations and information to the PPV property manager or owner and tenant within three business days of receiving all recommendations and information related to the dispute.

(8) The PPV property manager, owner and tenant may submit a written rebuttal to any information received by the deciding authority within three business days of receipt of information and recommendations provided by the deciding authority.

(9) If either party submits a rebuttal, the deciding authority must share the rebuttal with the other party within three business days of receipt. At the end of the rebuttal period, the fact-finding portion of the dispute resolution process is considered completed.

f. Independent Dispute Resolution Investigator

(1) The independent dispute resolution investigator is selected by the deciding authority after consulting with the Region Office of General Counsel (OGC). The independent dispute resolution investigator cannot be an employee or member of the Region or subordinate commands, and will not be an employee of, or affiliated with, the MHPI project company. The deciding authority will select a third-party investigator who meets the requirements set in enclosure (1).

(2) The independent dispute resolution investigator must carefully examine and evaluate all evidence to determine validity and significance, which includes physical evidence, records and information gained from interviews, and any actions taken by the PPV property manager or owner to repair the premises during the dispute resolution process to uncover intentions and uncertainties. When making a recommendation, the independent dispute resolution investigator

will consider recommendations and information collected from HSC IPD, PPV property manager or owner, or its representatives, the tenant, and other professionals or SMEs for the matter under dispute.

(3) The independent dispute resolution investigator will include a report that contains elements they deem factual, relevant to policy, based on evidence, an analysis, a conclusion and a recommendation.

(4) Funding for the independent investigator will be included in the Region annual control for Family Housing, Navy (FHN) or Quarters Operations (QO). If Regions determine they need additional funds for procurement of said services, then follow existing CNIC procedure to request additional funds as appropriate.

(5) Procurement of independent investigator services that are at or below the cardholder's micro-purchase threshold can be processed through the open-market using the government commercial purchase card (GCPC), funded with FHN or QO, and complying with the policies described per references (k) and (l). For investigative services estimated above the cardholder's micro-purchase threshold:

(a) Prepare a contract requirements package and submit to the Region Contract Services Management Office; and/or,

(b) Procure using reference (m), with the GCPC as a method of payment.

(c) Selection and award of a contract for independent investigator services may be accomplished non-competitively under part 6.302-3 of reference (n). Neither GCPC nor contractual procurements for the professional services of an independent investigator are subject to the requirements of the Service Contract Act, per the provisions of part 22.11 of reference (n).

g. Rent Segregation. If a formal dispute alleges failure to meet maintenance procedures as agreed under the terms of the Universal Lease agreement or applicable schedules or addenda, or the housing unit is otherwise alleged to be uninhabitable per applicable state or local law, the tenant may request that all or part of their rental payments received by the PPV property manager or owner are segregated during the formal dispute resolution process (not to exceed 60 calendar days). If the tenant is making such a request, it must be included on the request form for Dispute Resolution Process. Upon receipt of a complete request form for Dispute Resolution Process, in which the tenant has requested a partial or complete withholding of rental payments, the HSC will notify the PPV property manager or owner to initiate the process. As provided under the terms of the applicable PPV Operating Agreement or Memorandum of Understanding between the Navy and PPV entity, the PPV property manager or owner will segregate the tenant's rental payments in a project level reserve account unavailable to the PPV property manager or owner, or PPV property manager or owner's property manager, employees, agents, or contractors for any purpose pending completion of the formal dispute resolution process.

h. Inspection. If the formal dispute is related to living conditions or the physical condition of the premises, the HSC must conduct an inspection within seven business days of receiving a completed request form for Dispute Resolution Process.

(1) The HSC will schedule and conduct a physical inspection of the premises within seven business days of the formal request. Once the inspection has been scheduled, the HSC will notify the PPV property manager or owner (and appointee), the tenant (and representative) and the independent dispute resolution investigator to give them the opportunity to be present at the inspection.

(2) A written report is due within three business days of the HSC inspection. The HSC will complete a written report of findings and forward results of the inspection to the deciding authority, the PPV property manager or owner, tenant and other parties as determined by the deciding authority.

(3) The PPV property manager or owner, or its designee, may schedule a separate inspection, at which the tenant or tenant's representative, and HSC will be allowed to be present. The tenant will grant access to the premises for these inspections at a mutually agreeable time and duration.

(4) When the matter under dispute involves maintenance or other facility-related matters, the deciding authority will identify and select, as required, one or more professionals with specific subject expertise in the matter under dispute. The deciding authority may grant an additional seven business day extension in writing, if necessary, at the request of the HSC, the PPV property manager or owner, or the tenant to facilitate inspections.

i. Decision. The deciding authority will issue a final written decision in the formal dispute resolution process no later than 30 calendar days after the HSC receives a complete request form for Dispute Resolution Process. Per references (b) and (d), in limited circumstances, the deciding authority may take longer than the 30-day period, but only when a good cause exists. This includes extension for the SME inspector, PPV property manager, owner or tenant rebuttal, etc.

(1) A final written decision must be rendered not later than 60 calendar days after the HSC receives the complete request form for Dispute Resolution Process.

(2) The deciding authority will forward the decision to the tenant, PPV property manager or owner, the HSC, RPD, Navy Housing HQ, and the BAM on or before the deadline. The decision will certify that the deciding authority requested and considered the recommendations outlined in the policy; a concise statement of the rationale underlying the decision; and the resolution of the dispute, which may include direction of any remedies available or finding of no fault by the PPV property manager or owner, as applicable.

j. Remedies. The deciding authority's decision is final under the formal dispute resolution process. When the decision requires the PPV property manager or owner to perform work at the premises, the decision will stipulate that the tenant will give the PPV property manager or owner access and not interfere with the PPV property manager or owner's ability to perform required work at the premises. If the decision requires corrections to or repair of housing deficiencies, the written decision will specify a reasonable period of time, but not less than ten business days, for the work to be completed, per reference (d). The Navy Housing IPD will be responsible for monitoring ongoing remediation, and assessing that all work was completed. If remediation is not satisfactorily completed within the prescribed period, it will result in reductions to amounts payable to the PPV property manager or owner of ten percent for each period of five calendar days during which the issues remain un-remediated. The NAVFAC BAM is responsible for ensuring the execution of any required reductions to amounts payable to the owner. The deciding authority may only direct the following remedies:

(1) The PPV property manager or owner to take action to remediate the premises. This determination may identify specific commercially reasonable outcomes but will not specify methods of repair.

(2) The PPV property manager or owner to fund relocation of the tenant per the minimum tenant displacement guidelines identified in reference (e), enclosure (1), schedule 4 of the Universal Lease.

(3) For final determination of the disposition of any segregated rental payments, one or more of the following remedies, specifying a reasonable time for the PPV property manager, owner or tenant to comply.

(a) The distribution of any segregated rental payments to PPV property manager or Owner and tenant, as applicable.

(b) A reimbursement or credit for the payment of any fees, charges, or move-out damage assessments determined to be due to the PPV property manager, owner or tenant; allowing the tenant to terminate the lease; or excusing the tenant from the minimum move-out requirement notice and any associated fees.

k. Relationship to Applicable Laws. Nothing in the formal dispute resolution process, or any decision rendered by the deciding authority, prohibits a tenant, PPV property manager or owner, or the Navy from pursuing a claim in any adjudicative body that has jurisdiction per applicable state or federal law, or both.

l. Confidentiality and Use of Information. By using the dispute resolution process, all parties and their representatives agree to maintain the confidential nature of the proceeding and the decision, per schedule 3 of the Universal Lease. All written decisions or remedies rendered of this dispute resolution process will remain confidential and may not be released, unless it is necessary to demonstrate that any alleged damages have or have not been remedied.

5. Responsibilities

a. CNIC will:

(1) Ensure the dispute resolution process is implemented per references (a) through (g) by providing program management, oversight, funding and policy necessary to execute the dispute resolution process.

(2) Provide a dispute resolution findings report to ASN (EI&E) as requested on a quarterly basis, no later than 30 calendar days after each fiscal quarter ends.

(3) Post reference (e), enclosure (1) to the publicly available Navy Housing website. Reference (e), enclosure (1), provides details on the dispute resolution and rent segregation processes, which is excerpted from section 9 and schedule 3 of the Universal Lease.

b. REGCOMs will:

(1) Serve as the deciding authority for the formal dispute resolution process for privatized housing under their command.

(2) Provide oversight and assistance to installations in the administration and implementation of the formal dispute resolution process, to include oversight of timelines, communications, and reporting requirements.

(3) Provide Region N93 information on dispute resolutions as applicable, including all respective installation reports, to CNIC N93 for roll-up on a quarterly basis, no later than 20 calendar days after each fiscal quarter ends for inclusion in the ASN (EI&E) report.

c. Installation COs will:

(1) Manage the formal dispute resolution process at the HSC per this instruction and references (a) through (g).

(2) Ensure the HSC follows required timelines and notifies all required parties when a completed formal dispute resolution process request has been submitted. If the form is not complete, the HSC will notify the tenant within the two-business day timeframe and the time restarts.

(3) Ensure HSC documents all related actions and inspections in eMH. This includes reason, submission date, final decision date and total processing time from submission to completion for reporting purposes.

(4) Provide the inspection report and any other pertinent information to include recommendations as requested by the deciding authority.

(5) Provide a report of installation dispute resolution cases to the Region on a quarterly basis, no later than ten calendar days after each fiscal year quarter ends.

(6) Distribute reference (e), enclosure (1) by posting to publicly available websites. The HSC will post the dispute resolution and rent segregation processes excerpted from section 9 and schedule 3 of the Universal Lease.

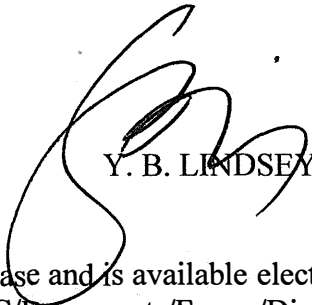
6. Exceptions and Waivers. All exceptions or waivers, or both, must be sent through the Region to CNIC N93 for approval.

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned for the standard subject identification codes (SSIC) 1000, 2000, and 4000 through 13000 series per the records disposition schedules located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at [https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information Management/Approved%20Record %20Schedules/Forms/AllItems.aspx](https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information%20Management/Approved%20Record%20Schedules/Forms/AllItems.aspx). For SSIC 3000 series dispositions, refer to part III, chapter 3, of Secretary of the Navy Manual 5210.1 of January 2012.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, contact your local records manager or the DON/AA DRMD program office.

8. Review and Effective Date. Per OPNAVINST 5215.17A, CNIC (N9) will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency and consistency with Federal, Department of Defense, Secretary of the Navy and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the need for cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.



Y. B. LINDSEY

Releasability and distribution:

This instruction is cleared for public release and is available electronically only via CNIC Gateway 2.0, <https://g2.cnice.navy.mil/CC/Documents/Forms/Directive%20Only.aspx>

INDEPENDENT DISPUTE RESOLUTION INVESTIGATOR DESCRIPTION

1. Requirements and Scope. The following requirements and scope are taken from enclosure (1) of reference (e), and reference (f):

a. The independent decision resolution investigator will not be an employee or member of the Region or subordinate commands, and will not be an employee of, or affiliated with, the MHPI project company.

b. Must be available to attend an in-person inspection within seven days of notification.

c. Must review all provided recommendations.

d. Must provide a final recommendation to the decision authority within the timeline given (30 days).

2. CNIC Additional Requirements and Scope

a. Knowledge. The investigator should be familiar with:

(1) Federal, state and local landlord tenant laws, including tenant and landlord responsibilities.

(2) The Navy's MHPI program, including but not limited to the provisions and applicability of Ground Leases, Operating Agreements, Universal Leases, policy, guidance and instructions relating thereto. The investigator may be required to sign a non-disclosure agreement when dealing with documents that contain proprietary information.

(3) State where the investigation is occurring.

(4) Life, health and safety hazards in housing.

(5) Landlord tenant mediation.

b. Experience. The investigator should have experience with:

(1) Evaluating records and physical evidence.

(2) Analyzing reports and information gained from interviews and other sources.

(3) Developing and providing written recommendations using supporting evidence.

c. Ability. The investigator should be able to:

- (1) Conduct an investigation including review of:
 - (a) Tenant and property owner files.
 - (b) Maintenance records.
 - (c) Previously conducted inspection records and testing results.
- (2) Conduct additional fact-finding investigation as required.
- (3) Review available recommendations or reports from experts and professionals regarding additional inspections, testing, etc.
- (4) Accurately document the investigation and provide all relevant information in a final written recommendations.