

Non – Resident Bar Out Policy

Policy Statement

The Greenburgh Housing Authority seeks to promote the safety, security and well-being of all GHA residents, employees and other persons who have a legitimate purpose on GHA property. Drug dealing, gang-related activities, disorderly and/or lewd conduct, and/or violent criminal activities all have a profoundly negative impact on public safety and the quality of life in GHA housing. The enactment of this bar-out policy enables the GHA to deny non-residents who have engaged in such serious criminal conduct access to GHA property. This policy applies only to non-residents who are over the age of eighteen.

Criteria for Exclusion

Non-residents who engage in criminal activity on GHA property shall be barred from GHA for two or more years.

Any non-resident of the GHA who engages in following conduct while present on GHA property will be precluded from entering GHA property upon service of a Bar-Out Notice for two years:

- Trespassing on GHA property, as defined under the New York Penal Law.
- Entering GHA property in violation of the express terms of an Order of Protection entered in favor of an GHA tenant.
- Engaging in conduct that constitutes the crime of criminal possession of a weapon under the New York Penal Law.
- Engaging in disorderly and/or obscene conduct, and/or public lewdness as defined under the New York Penal Law.

Any non-resident of the GHA who engages in one of the following violent criminal activities while present on GHA property will be precluded from entering GHA property upon service of a Bar-Out Notice for five years:

- Engaging in assault, gang assault, and/or other threatening behavior that constitutes a felony under the New York Penal Law.
- Engaging in gang activity, which includes but is not limited to:
 1. Displaying symbols of gang affiliation for the purpose of

evidencing gang membership and/or intimidating rival gangs, residents and/or GHA employees.

2. Gesturing for the purpose of intimidating rival gangs, residents and/or GHA employees and/or to provoke a violent response in another person.

Any non-resident of the GHA who engages in following conduct while present on GHA property will be precluded from entering GHA property upon service of a Bar-Out Notice for ten years:

- Possession or sale of a controlled substance which constitutes a felony under the New York Penal Law (herein referred to as “drug dealing”).

Any non-resident of the GHA who engages in following conduct while present on GHA property will be precluded from entering GHA property upon service of a Bar-Out Notice for life:

- Committing one of the following violent criminal activities: homicide, incest, sexual misconduct against a child, and/or rape, as defined under the New York Penal Law.

Procedure

Upon notice to the GHA from the Greenburgh Police Department and/or any other law enforcement agency, that a non-resident has been convicted for drug dealing, gang-related activities, disorderly and/or lewd conduct, and/or other violent criminal activities on GHA property, the GHA shall issue a written Notice of Exclusion to the non-resident.

Content of the Notice of Exclusion: The Notice of Exclusion served upon the non-resident shall be dated and shall state (a) that he/she has been convicted of drug dealing, gang-related activities, disorderly and/or lewd conduct, and/or other violent criminal activities on GHA property; (b) the date and approximate time of the illegal conduct; (c) that as a result of the illegal conduct, he/she is barred, effective immediately, from entering property owned by the GHA, noting the time period in which the bar-out shall remain in effect; (d) that the non-resident’s appearance on GHA property during the period of the bar-out shall result in the filing by the GHA of a criminal complaint for trespass; (e) that the non-resident has a right to file an informal appeal of the GHA’s determination to issue the Notice of Exclusion; and (f) that under the circumstances set forth in this policy, the non-resident may file an application for Special Access or Emergency Access. Additionally, the Notice of Exclusion shall advise the non-resident that their name shall be published on the GHA bar-out list. The Notice of Exclusion may be issued by the GHA Informal Hearing Officer, the GHA’s Executive Director, and/or the Executive Director’s designee.

Service of the Notice of Exclusion: The Notice of Exclusion shall be served upon the non-resident by personal service and/or by regular mail and certified mail, return receipt requested, addressed to the non-resident's last known address. In the event personal service is made, any employee and/or agent of the GHA may effectuate the service. The GHA shall maintain documentation evidencing the service of the Notice of Exclusion upon the non-resident. In the event the regular mail is not returned to the GHA, then service upon the non-resident shall be presumed effectuated after 5 days have elapsed from the date of mailing. A non-resident's name may not be included on the GHA Bar-Out List until such time as service is effectuated.

Publication of the Bar-Out List: The GHA shall post in each building owned and operated by the Authority, and shall distribute to all residents, resident council members, and the Greenburgh Police Department four (4) times per year, an official list of names of all persons who have been served with a Notice of Exclusion and the Bar-Out List shall include the effective and expiration dates of the bar-out. Notwithstanding the foregoing, the Bar-Out List shall be updated by the GHA from time-to-time, as the Authority deems appropriate.

Appeal of the Notice of Exclusion: A non-resident who has been served with a Notice of Exclusion may appeal the exclusion by serving a written request sponsored by a Resident for an informal hearing at any time during the exclusion period, addressed to the GHA Bar out Committee.

GHA Bar – Out Committee,
9 Maple Street
White Plains, NY 10603

An Individual may request removal from the Bar-Out list within 30 days of the initial placement on the Bar-Out list and once annually.

The non-resident may review the GHA file prior to the Informal Hearing, and may attend the hearing with a representative of his/her choice. During the hearing, the non-resident may present any evidence relevant to the Notice of Exclusion.

Upon conclusion of the informal hearing, the GHA Bar out committee or Informal Hearing Officer shall issue a written decision that shall uphold the Notice of Exclusion; withdraw the Notice of Exclusion upon sufficient proof that the criminal charges levied against the non-resident have been dismissed; or, the Informal Hearing Officer may, at his or her sole discretion, withdraw the Notice of Exclusion if he/she concludes that there is a reasonable probability that the non-resident's future conduct would not be likely to affect adversely the health, safety or welfare of GHA Residents and Employees.

To determine whether there is a reasonable probability that the non-resident's future conduct would not be likely to affect adversely the health, safety or welfare of GHA Residents and Employees, the GHA Bar Out Committee may consider:

- The seriousness of the offense(s);
- The frequency of the offense(s);
- When the offense(s) occurred;
- Evidence about the conduct underlying the offense;
- Evidence regarding the non-residents rehabilitation since the offense, including but not limited to (a) proof that the non-resident has enrolled in and remained in school for at least six months, and has compiled a positive school record; (b) proof that the non-resident has enrolled in and remained in a job-training program for at least six months, and has compiled a positive work record; (c) a letter from the prosecutor or sentencing judge that the non-resident has been rehabilitated; (d) such other evidence that the Informal Hearing Officer deems relevant and probative of the issues.

Request for Special Access: A non-resident who has been served with a Notice of Exclusion may file a Request for Special Access at any time during the exclusion period, addressed as follows:

GHA Executive Director
 9 Maple Street
 White Plains, NY 10603

Absent special circumstances, such as a Court Order of Visitation, an application for Special Access must be made jointly by the non-resident and a lawful Resident of the GHA (hereinafter referred to as an "Interested Resident"). The Interested Resident's signature must be notarized and the Interested Resident must list any members of his/her household who have ever been subject to a Notice of Exclusion.

Upon review of the Special Access application, the Informal Hearing Officer shall issue a written decision which shall either grant or deny the application. The application may be granted only upon one of the following circumstances:

- The non-resident is a caregiver for the Interested Resident (or other individual residing with the Interested Resident) who is infirm or disabled, and no reasonable alternative means of providing such care exists;
- The non-resident is a caregiver for his or her minor child or grandchild, who resides on GHA property with an Interested Resident, and no reasonable alternative means of providing such care exists;
- The non-resident has parental visitation rights with respect to a child residing on GHA property and it is necessary under the circumstances that such non-resident be allowed access to GHA property in

connection with such visitation; or

- Any other situation exists where it is necessary under the circumstances presented, such as direct family visitation, that such non-resident be allowed access to GHA property and there is no reasonable alternative to allowing such access.

Where the non-residents application for Special Access is granted, the Special Access shall be conditioned upon the following:

- The non-resident must proceed directly to and from the Interested Resident's apartment;
- The non-resident shall not enter any apartment other than the apartment of the Interested Resident;

The non-resident shall not be permitted access to any common areas on GHA property except for direct ingress and egress to the Interested Resident's apartment.

In the event that Special Access is granted to the non-resident, the GHA shall immediately advise the Greenburgh Police Department.

Where a non-resident violates the terms of a Special Access grant, the GHA shall serve upon the non-resident a Notice of Revocation of Special Access in the same manner as a Notice of Exclusion is served under this policy. The Notice of Revocation of Special Access shall advise the non-resident (a) that the Special Access grant is revoked; (b) that he/she is barred, effective immediately, from entering property owned by the GHA, and that the Notice of Exclusion previously served upon him/her has been reinstated, noting the time period in which the bar-out shall remain in effect; and (c) that the non-resident's appearance on GHA property during the period of the bar-out shall result in the filing by the GHA of a criminal complaint for trespass.

Where the non-resident's application for Special Access is denied, the Notice of Exclusion shall remain in full force and effect, and the non-resident shall continue to be subject to arrest for trespass upon entering GHA property. The Interested Resident may file a grievance under the GHA Grievance Procedure in the event an application for Special Access is denied.

The non-resident and Interested Resident may file a new application for Special Access upon a denial of access, but only if there are materially changed circumstances that provide new grounds for an exemption.

Request for Emergency Access: In the event of an emergency requiring that the non-resident be allowed immediate access to GHA property, the non-resident may make an oral application to the Executive Director and/or the Executive Director's designee, in person or by telephone during normal business hours. Upon

consideration of the request, the non-resident may be granted temporary access to GHA on such terms and conditions as deemed appropriate by the GHA, or the application for emergency access may be denied, at the full and absolute discretion of the GHA. In the event that Emergency Access is granted to the non-resident, the GHA shall immediately advise the Greenburgh Police Department.