



**WEST MOBERLY FIRST NATIONS**

**HOUSING POLICY & PROCEDURES**

**BAND-ADMINISTERED MORTGAGE**

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## **INTRODUCTION**

The West Moberly First Nations Band-Administered Mortgage Program provides those Band Members that qualify for a mortgage with a financial institution with an opportunity to build or purchase a house on reserve land.

Because reserve lands are held by the Crown for the use and benefit of First Nations, as set out in the Indian Act. The Indian Act (Section 89(1)) protects Indian property from seizure by a non-Indian. Section 89(1) of the Indian Act effectively prevents the use of land on reserve as security and the seizure of real property located on reserve by a lender. As such, Financial Institutions will not provide a mortgage for housing on reserve without an INAC Ministerial Loan Guarantee.

Band Members that access the Band-Administered Mortgage Program negotiate a mortgage with West Moberly First Nations. WMFN will negotiate mortgage funds from the financial institution. Mortgage payments are paid to WMFN and mortgage terms are as per the mortgage agreement and this policy.

WMFN is ultimately responsible for repayment of any unpaid mortgage and fees. In the event of foreclosure, WMFN repossesses the house. Repossessed houses will be offered to the Family for reallocation for a limited time and then become part of the Band Owned Rental Program.

## DEFINITIONS

<b>Abandon:</b>	A living unit is deemed to be abandoned if the Homeowner has given written notice of their intention to abandon the unit or if the unit has been vacant for 20 days after the first of the month without written notice and without prior arrangement for mortgage payment.
<b>Amortization:</b>	The repayment of a loan principal over time.
<b>Appeal:</b>	Appeals shall be addressed as per WMFN Appeals Policy.
<b>Band:</b>	West Moberly First Nations
<b>Band Member:</b>	A person who is registered on the most current WMFN Registry List; or as otherwise defined in the WMFN Interpretation Policy.
<b>Band-Administered Mortgage Agreement:</b>	The written agreement that establishes the terms and conditions regarding the WMFN mortgage.
<b>Certificate of Possession: (C.P.)</b>	Documentary evidence of a First Nation member's lawful possession of Reserve lands pursuant to the Indian Act.
<b>Community Member:</b>	A non-Band member cohabiting with a Band Member in a married or common-law relationship for at least one (1) year, including the children of that union; or as otherwise defined in the WMFN Interpretation Policy.
<b>Council:</b>	The Chief and Council of West Moberly First Nations.
<b>Days:</b>	WMFN business days
<b>Elder:</b>	Any Band Member who is 60 years of age or older; or as defined in the WMFN Interpretation Policy.
<b>Family:</b>	One of the four main WMFN family groupings (Brown, Desjarlais, Dokkie, Miller).
<b>Family Councillor:</b>	An elected or appointed member of Council representing one of the four main family groupings (Brown, Desjarlais, Dokkie, Miller).
<b>Foreclosure:</b>	The action of the Mortgagee taking possession of a mortgaged property when the Mortgagor defaults on mortgage payments.
<b>Housing Department:</b>	The WMFN administrative department responsible for housing.
<b>Homeowner:</b>	The person who is named as the Mortgagor in the Mortgage Agreement.
<b>Housing Manager:</b>	The person employed by West Moberly First Nations to carry out responsibilities of the housing department.

<b>Infrastructure Fees:</b>	Funds collected for the ongoing infrastructure costs (including sewer, water, garbage pickup, and insurance) of the specific unit.
<b>Maintenance Package:</b>	Optional package offered to Homeowner. WMFN provides home maintenance according to levels outlined in signed agreement between Homeowner and WMFN.
<b>Mortgage:</b>	A legal agreement by which a bank or other creditor lends money at interest in exchange for taking title of the property, with the condition that the title will be fully transferred upon the completed payment of the debt
<b>Mortgagee:</b>	The institution or creditor that lends monies for the mortgage. In this case WMFN.
<b>Mortgagor:</b>	The person(s) who enters into a Mortgage with the lender to pay regular principal and interest payments in return for a loan to build or purchase the unit.
<b>Mortgage Payment:</b>	A regularly scheduled payment that includes principal and interest paid by the borrower to the lender of a home loan (mortgage). The principal portion is used to pay off the original loan amount; the interest is paid to the lender.

# **1 HOUSING MANAGER**

- 1.1 The Housing Manager is an employee of WMFN administration. Is responsible to:
- a) Apply and enforce housing policy and associated Band-Administered Mortgage Agreement (Appendix I)
  - b) Recommend changes in policy as needed and to review housing goals and priorities annually
  - c) Maintain an up-to-date list of applications for housing assistance
  - d) Manage the selection process for WMFN housing
  - e) Carry out or oversee maintenance and repairs in a cost-effective manner
  - f) Research and implement housing best practices
  - g) Develop sustainable housing programs and projects
  - h) Monitor the effectiveness of all housing policies and programs
  - i) Provide information for Homeowners who require assistance in understanding and assuming their housing responsibilities
  - j) Respond in writing within 20 days to Homeowner queries, requests for services, and complaints
  - k) Act as a liaison between Homeowners, administration, and Chief & Council
  - l) Provide regular reports to the WMFN Administration on financial status of all WMFN housing, current projects, and future applications regarding housing and capital works

## **2 ELIGIBILITY**

2.1 To qualify for Band-Administered Mortgage Housing, WMFN Band Members must minimally meet the following requirements:

- a) Be a registered WMFN Band Member
- b) Be in Good Financial Standing with WMFN (according to WMFN Interpretation Policy)
- c) Fully complete a WMFN Housing Application including Budget Analysis
- d) Provide verification of household income

2.2 Applicants who are not in Good Financial Standing with West Moberly First Nations are not eligible until:

- a) rental arrears / outstanding accounts have been paid in full

**OR**

- b) the applicant is considered in Good Financial Standing with WMFN (according to WMFN Interpretation Policy). This does not include accounts that are outstanding due to tenant damage. Please see (c) below.
- c) Where the outstanding account is related to damage to a WMFN rental unit currently or previously occupied by the applicant(s), this outstanding account must be paid in full before the applicant becomes eligible.

2.3 Applicants with a history of poor tenancy (cited for lease agreement violations where notice to correct or vacate was issued) shall not be considered eligible except where either:

- a) The applicant provides a reference from their most recent landlord that confirms compliance with a lease agreement for a consecutive 1 year period;

**OR**

- b) Where a formal rental agreement is not currently in place, the applicant can provide a reference by which the housing manager can confirm the applicant's ability to effectively manage the financial and physical responsibilities of occupying a unit as a Tenant.

### **3 APPLICATION PROCEDURES**

- 3.1 Applications for housing shall be made in writing and submitted to the Housing Manager. Receipt of all applications shall be acknowledged in writing.
- 3.2 All applications will be kept on file for one year. Band Members are required to re-apply annually to keep applications current.
- 3.3 Current housing applications are available at the WMFN Administration Office.
- 3.4 All applications for housing received by the Housing Manager shall be forwarded to the respective Family Councillor for information purposes.

### **4 HOUSING ALLOCATION**

- 4.1 Allocation of a housing units within WMFN shall be based on the following priorities:
  - a) disabled persons
  - b) elders
  - c) condemned units
  - d) substandard or overcrowded conditions
  - e) family units
  - f) couples (without children)
  - g) singles
  - h) members who have already purchased a home through WMFN housing programs



## 5 MARITAL BREAKDOWN OR DEATH OF A HOMEOWNER

5.1 Where a married or common-law couple, who are noted as the primary and secondary tenants on the Residential Tenancy Agreement, separate or divorce, or where one of the tenants dies, the following applies:

- a) *Two Band Member Tenants*: where both Tenants are members of WMFN, either Tenant may remain in the unit as long as the remaining tenant qualifies according to budget analysis and verification of income. (See Section 2) The remaining tenant shall advise the housing manager of the change in occupants. The Residential Tenancy Agreement shall be amended to reflect the change in occupants.
- b) *One Band Member and One Non-Band Member Tenant*: where one tenant is a Band Member and the second tenant is a non-band member, the Band Member shall have the first right to occupy the unit.

Where the remaining tenant is the Band Member, the terms of the original Residential Tenancy Agreement shall remain in place; however, the agreement shall be amended to reflect the names of the occupants.

Where the remaining tenant is a non-band member, they may remain in the unit for a maximum of six (6) months from the date of separation, divorce or death of the Band Member tenant. The Housing Manager shall issue a notice to terminate the Residential Tenancy Agreement 90 days preceding the end of the six months.

Where the remaining tenant is a non-band member who is a custodial parent/guardian of minor children who are Band Members of WMFN, the non-member may remain in the unit subject to the following:

- i) The original Residential Tenancy Agreement shall be terminated and a new Residential Tenancy Agreement shall be assigned with the new primary occupant **and**
- ii) There is no record of unresolved lease/housing policy violations and there are no arrears on the account. Any arrears require a written repayment agreement to be negotiated with the Band and continually honoured by the tenant.
- iii) When no minor band member children remain in the unit the non-band member may remain in the unit for a maximum of six (6) additional months The Housing Manager shall issue a notice to terminate the Residential Tenancy Agreement 90 days preceding the end of the six-month period.

5.2 All other instances of Marital Breakdown or Death of a Tenant shall follow provisions of the *Family Homes on Reserves and Matrimonial Interests or Rights Act* and the provisions of any valid will.

## 6 CONSTRUCTION OF NEW UNITS

All Band Housing shall be constructed under the direction of the Housing Manager and an approved building contractor and/or project manager in consultation with the Homeowner. Initial scope of work and any change orders must be authorized in writing by the Housing Manager.

### Site Location

- 6.1 New units shall be constructed only in areas of the reserve designated for residential use within the Physical Development Plan (PDP) or any exceptions approved by a quorum of Council.
- 6.2 To every extent possible, units shall be located to take maximum advantage of existing infrastructure such as sewer and water, streets and roads and electrical service.
- 6.3 Selection of any lot, outside the serviced areas, shall not be approved unless the homeowner pays for service connections of water, sewer, hydro, roads, and any other additional expense necessary in the construction and maintenance of the unit.
- 6.4 Funding for construction within traditional C.P.'s shall not be honored. The process of approval shall be based only on the following:
  - a) The owner shall release title of the C.P. to the band. The tenant shall receive a Certificate of Title for the unit but shall not include title of any Band Land on which it resides.

### Construction

- 6.5 Construction of New Units must be substantially completed within 2 (two) years. Site Allocation for future development will not be valid beyond 2 (two) years.
- 6.6 Prior to construction
  - a) All necessary financing shall be in place including Ministerial Loan Guarantee
  - b) The Band-Administered Mortgage Agreement shall be signed by the Band Member and WMFN.
- 6.7 A Specification Sheet shall be completed and signed by the Housing Manager, Contractor, and Homeowner, to include the following:
  - a) House plans that comply with the WMFN Housing Standards (Appendix III)
  - b) Site Location.
- 6.8 Units shall be constructed in accordance with WMFN Housing Standards (Appendix III)
- 6.9 Construction standards shall be in accordance with the *BC Building Code*.
- 6.10 Technical support and inspections shall be provided by the authority having jurisdiction in the Peace River Regional District.
- 6.11 New units may not be occupied until the Housing Department receives a copy of the completion/occupancy certificate issued by the certified inspector confirming that the house is completed as per the Specification Sheet.

## **7 HOMEOWNER AGREEMENTS**

- 7.1 Mortgage Agreements constitute a contract between the Homeowner, and WMFN. A Mortgage Agreement shall be negotiated and signed between the Band Member and WMFN.
- 7.2 WMFN is responsible for maintaining the infrastructure including water, sewer, insurance, and garbage removal. Fees will be charged for each unit to pay for this infrastructure. Additional maintenance packages may be purchased by the Homeowner (Appendix IV).
- 7.3 The Band shall purchase a blanket insurance policy to cover all normal risk to property. Each house shall be assessed such an amount as is necessary to cover that portion of insurance cost, with the total sum divided into 12 equal payments to be included in the monthly Infrastructure Fees calculation.
- 7.4 Homeowners are responsible for
  - a) all maintenance not covered by purchased maintenance packages
  - b) keeping the unit and property free of health and safety hazards
  - c) informing the housing manager of all planned absences from the unit (for health and safety reasons)
  - d) maintaining personal content insurance

## **8 DEFAULTS ON MORTGAGE AGREEMENT AND EVICTION**

8.1 To ensure the viability of the Housing Program it is expected that all Homeowners will honour the terms of the Mortgage Agreement.

8.2 Default and arrears process:

- a) The Housing Manager shall deliver a Notice of Default to the Mortgagor by way of Registered Mail within 5 days of default. Notice will be considered received on the shorter of: the day the letter is picked up at the post office or 10 days after the letter is originally mailed.
- b) If payment is not received with 24 hours of receiving the Notice of Rent Default, the Housing Manager will schedule a meeting with the Tenant and Director of Operations to settle the arrears problem.

A second letter shall be delivered by way of Registered Mail informing the Tenant the date of the meeting. Notice will be considered received on the shorter of: the day the letter is picked up at the post office or 10 days after the letter is originally mailed.

Finance shall be involved as necessary to negotiate a repayment agreement.

Meetings may be rescheduled to accommodate Mortgagor and administration however, must take place within 10 days of the originally scheduled meeting. If the Mortgagor does not attend the meeting, then the Housing Department shall proceed with the eviction process.

- c) At no time shall arrears exceed the amount of one month's mortgage payment. A written repayment agreement must be in place.
- d) Any member / community member that is employed by the band and is not in good financial standing shall be subject to the Finance Department deducting up to 30% from their pay cheques and honorariums each pay period until the arrears are paid off. This is subject to any previous repayment agreement negotiated with Finance. (Appendix III)
- e) If Mortgagor defaults on repayment agreement or arrears exceed the amount of one month's rent, Eviction process shall begin.
- f) Formal eviction documentation will be forwarded to the RCMP. RCMP will be involved as required to support eviction.
- g) All correspondence will be copied to Family Councillors.

## **9 MAINTENANCE**

- 9.1 The Homeowner will assume responsibility for all maintenance and housing repairs. Maintenance Packages may be purchased to fund such items as (see Appendix IV):
- a) Major Building Components:
    - i Roofs including coating, flashing, eaves troughs and downspouts
    - ii Exterior wall finishes having a generally accepted defined life expectancy including exterior painting
    - iii Exterior doors and windows
  - b) Major Building Services:
    - i Heating systems including boilers, forced air furnaces, radiant heat components, solid fuel burning systems, chimneys and related components
    - ii Domestic hot water tanks, septic tanks and tile beds
    - iii Required air handling systems (e.g. HRV)
  - c) Basic Facilities:
    - i Appliances, sink and faucet installations, counter tops and cabinets
    - ii Bathroom facilities such as toilets, sinks and fixtures, vanities, bathtub and fixtures
  - d) Other Major Facilities, Equipment and Fixtures:
    - i Interior floor covering

## **10 MAJOR REPAIRS**

- 10.1 Homeowners may be eligible for funding for major repairs through grants. The Housing Manager will assist with development of grant applications; however, WMFN will not assume responsibility for ensuring funding for Major Repairs for Band-Administered Mortgage units.

## **11 REPOSSESSION OF HOUSING UNITS**

- 11.1 WMFN may at any time repossess a unit for the following reasons:
- a) Where the Homeowner has abandoned the unit.
  - b) Where the Homeowner is in default on the Mortgage Agreement and WMFN has assumed responsibility for the unit according to the terms of the Band-Administered Mortgage Agreement.
- 1.1 Units that have been repossessed shall be re-allocated back to the Family holding interest within that housing allotment. If the unit cannot be reallocated to an eligible Band Member within that Family within sixty (60) days, the unit shall revert to WMFN and be used as a Band-Owned Rental unit.

**REVIEWED & RECOMMENDED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

APPROVED BY:

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