



**WEST MOBERLY FIRST NATIONS**  
**HOUSING POLICY & PROCEDURES**  
**BAND-SECURED MORTGAGE**

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## **INTRODUCTION**

The West Moberly First Nations Band-Secured 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-Secured Mortgage Program negotiate a mortgage directly with the financial institution. Mortgage payments are paid directly to the financial institution and mortgage terms are as per the mortgage agreement with the institution.

West Moberly First Nations applies for a Ministerial Loan Guarantee on behalf of the Band Member. In the event of a foreclosure, INAC pays out the loan and fees to the institution and recovers this amount from West Moberly First Nations. WMFN is ultimately responsible for repayment of any unpaid mortgage and fees. In the event of foreclosure, WMFN repossesses the house. Repossessed houses will become part of the Band Owned Rental Program.

## DEFINITIONS

<b>Abandon:</b>	A living unit is deemed to be abandoned if the Tenant 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 rental 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-Secured Mortgage Agreement:</b>	The written agreement that establishes the terms and conditions regarding the WMFN mortgage guarantee through the Ministerial Loan Guarantee.
<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>Eviction:</b>	The legal action taken by WMFN to expel a homeowner from a living unit for failure to honour the condition of the Band-Secured Mortgage Agreement.
<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 taking possession of a mortgaged property when the mortgagor fails to keep up their mortgage payments.
<b>Guarantor:</b>	West Moberly First Nations. WMFN is ultimately responsible for repayment of mortgage default and fees according to the INAC Ministerial Loan Guarantee policy.
<b>Housing Department:</b>	The WMFN administrative department responsible for housing.

<b>Homeowner:</b>	The person who is names 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, and garbage pickup) of the specific unit.
<b>INAC:</b>	Indigenous and Norther Affairs Canada
<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>Ministerial Loan Guarantee:</b>	(MLG) A tool to assist First Nations in accessing loans for housing on reserve. 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. These restrictions pose a barrier to securing loan financing such as mortgages for on-reserve projects including housing. To address this risk to the lender, INAC issues MLGs to lenders to secure on-reserve housing loans. MLGs can be used to secure loans for construction, acquisition, or renovation of on-reserve housing projects.
<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>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 Guarantee:</b>	The process by which WMFN secures a mortgage through the Ministerial Loan Guarantee process.
<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-Secured 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-Secured 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
  - e) Pre-qualify for Mortgage with financial institution
    - i Amortization period shall not exceed 25 years (additional years shall not be added during subsequent renewals or refinancing)
- 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 Band-Secured Mortgage program applications are solely for the application to WMFN to provide a Mortgage Guarantee. Band Members shall apply directly to the Financial Institution regarding Mortgage qualification.
- 3.5 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 All 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 MORTGAGE GUARANTEE**

Band member interested in home ownership must receive approval from WMFN to secure a Mortgage to build or purchase a home in WMFN. Upon approval, WMFN will apply for a Ministerial Loan Guarantee from INAC.

- 6.1 When an applicant is confirmed as eligible (See Section 2), the Housing Manager shall present the Application for Mortgage Guarantee (Appendix II) to Council and request approval for a Mortgage Guarantee in the lesser of the Financial Institution pre-qualification or the maximum WMFN eligible amount (see Section 6.3). Council shall issue a Band Council Resolution to confirm approval of the Mortgage Guarantee and apply for the MLG in the name of the band member.
- 6.2 Mortgage Guarantees will be approved to a maximum of \$300,000 based on the Financial Institution pre-qualification. Funds in excess of this amount will be the responsibility of the applicant.
- 6.3 Approvals are subject to funding availability determined by Council in the annual budget. To maintain financial integrity and sustainability for the nation, WMFN will allow a maximum of \$3,000,000 outstanding liability associated with Band-Secured Mortgage Ministerial Loan Guarantees. This limit shall be reviewed annually.
- 6.4 WMFN shall guarantee funding through the Band-Secured Mortgage Program for only the primary residence for each band member.
- 6.5 If Council approves the application, within 15 business days of receiving approval from Council, the Housing Department shall prepare a Letter of Verification for the applicant to present to the Bank. The letter shall acknowledge:
  - a) The applicant's membership in WMFN
  - b) Council's commitment to a Mortgage Guarantee
  - c) The amount of the Mortgage Guarantee
- 6.6 Construction of New Units must be substantially completed within 2 (two) years from date of Letter of Verification. Site Allocation for future development will not be valid beyond 2 (two) years.
- 6.7 On receipt of WMFN conditional approval of the Mortgage Guarantee, the applicant is responsible to contact the approved Financial Institution to finalize the Mortgage Agreement.
- 6.8 All payments shall be remitted directly to the Financial Institution according to the terms of the Mortgage Agreement.

## 7 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

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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

- 7.5 Prior to construction
  - a) All necessary financing shall be in place including Ministerial Loan Guarantee
  - b) The Band-Secured Mortgage Agreement shall be signed by the Band Member and WMFN.
- 7.6 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.
- 7.7 Units shall be constructed in accordance with WMFN Housing Standards (Appendix III)
- 7.8 Construction standards shall be in accordance with the *BC Building Code*.
- 7.9 Technical support and inspections shall be provided by the authority having jurisdiction in the Peace River Regional District.
- 7.10 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.

## **8 HOMEOWNER AGREEMENTS**

- 8.1 Mortgage Agreements constitute a contract between the Homeowner, the Financial Institution, and WMFN. A Mortgage Agreement shall be negotiated and signed between the Band Member and Financial Institution. All Band Member participants of the Band-Secured Mortgage program are also required to sign a Band-Secured Mortgage Agreement with WMFN prior to construction.
- 8.2 WMFN is responsible for maintaining the infrastructure including water, sewer, 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).
- 8.3 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 adequate homeowner's insurance for the unit and contents

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

- 9.1 To ensure the viability of the Housing Program it is expected that all Homeowners will honour the terms of the Mortgage Agreement.
- 9.2 Where the Homeowner is in default on the Mortgage Payments, it is the responsibility of the Homeowner to negotiate a resolution to this default with the Financial Institution.
- 9.3 Where the Homeowner has failed to resolve the default of the Mortgage Agreement to the satisfaction of the Financial Institution, resulting in the exercising of the Ministerial Loan Guarantee, the Housing Department shall begin eviction proceedings.
- 9.4 The Housing Department shall issue a 30-day Eviction Notice to the Homeowner by Registered Mail. 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.
- 9.5 Formal eviction documentation will be forwarded to the RCMP. RCMP will be involved as required to support eviction.
- 9.6 All correspondence will be copied to Family Councillors.

## **10 MAINTENANCE**

10.1 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

## **11 MAJOR REPAIRS**

11.1 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-Secured Mortgage units.

## **12 REPOSSESSION OF HOUSING UNITS**

12.1 WMFN may at any time repossess a unit for the following reasons:

- a) Where the Homeowner is in default on the Mortgage Agreement and WMFN has assumed responsibility for the unit according to the terms of the Ministerial Loan Guarantee and the Band-Secured Mortgage Agreement.

12.2 Units that are repossessed as per this policy will become part of the Band-Owned Rental Program.

**REVIEWED & RECOMMENDED**

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

APPROVED BY:

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