
YAKAMA NATION HOUSING AUTHORITY

**MUTUAL HELP CONVEYANCE
POLICY & PROCEDURES**

Yakama Nation Housing Authority

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YAKAMA NATION HOUSING AUTHORITY MUTUAL HELP CONVEYANCE POLICY & PROCEDURES

Chapter 1 PURPOSE AND SCOPE

- 100.1 Purpose.** This Mutual Help Conveyance Policy and Procedures (this “Policy”) has been adopted by the Yakama Nation Housing Authority (“YNHA”) Board of Commissioners (the “Board”) to ensure that the conveyance of Mutual Help Homes to homebuyers under the Mutual Help Homeownership Opportunity (“MH”) Program are processed in an expeditious and efficient manner, including coordination between and among the homebuyers, YNHA administration, YNHA finance and the Bureau of Indian Affairs, U.S. Department of Interior (“BIA”).
- 100.2 Scope.** This Policy applies to all homes that are under YNHA management and which were constructed under the MH Program. Under the MH Program, YNHA leased Yakama trust land, both individual allotments and Tribal trust parcels, for the purpose of constructing Indian housing with federal funds administered by the U.S. Department of Housing and Urban Development (“HUD”). YNHA built single family homes on the leased lands and then entered into lease-purchase agreements with eligible families to purchase the homes. The MH Program ended in 1996 with the passage of the Native American Housing and Self-Determination Act and the regulations that governed the program are no longer in effect. The relationship between the homebuyers and YNHA is governed by the MH Agreements and, as applicable, the terms of the homesite leases on the individual allotments.

Chapter 2 AUTHORITY, ADMINISTRATION & APPLICABLE LAWS

- 200.1 Authority.** The Board has authority to adopt this Policy under Resolution T-94-77 (June 21, 1977), as amended, and is responsible to ensure that any policies that are adopted are appropriate for YNHA. This Policy and any amendments to this Policy shall be effective only upon adoption by Resolution of the Board.
- 200.2 Delegation of Authority.** The Board delegates the responsibility for the administration and monitoring of this Policy to the YNHA Executive Director. The Executive Director may delegate one or more of his/her duties to a YNHA staff member who is competent to perform those duties, provided the delegation is in writing.
- 200.3 Implementation.** The Executive Director will ensure that any procedures or forms that are developed to implement this Policy conform to this Policy. Work performed under

this Policy shall be at all times in the best interests of the YNHA and in accord with other YNHA policies and applicable laws. Personnel using this Policy are responsible for being familiar with its content.

- 200.4 Applicable Laws.** This Policy shall comply with all applicable laws including, without limitation, the Revised Code of the Confederated Tribes and Bands of the Yakama Nation (“RYC”), as amended, the Native American Housing and Self-Determination Act of 1996 (Pub. Law 104-330), as amended (“NAHASDA”) and regulations under NAHASDA. The YNHA Executive Director will periodically review this policy and recommend amendments as necessary to comply with applicable laws, or for other purposes.
- 200.5 Sovereign Immunity.** YNHA hereby expressly affirms its tribal sovereign immunity to suit in any jurisdiction or tribunal and does not waive, alter, or otherwise diminish that sovereign immunity by adopting or implementing this Policy or any other standard, document, or law referenced herein. To the extent any provision of this Policy or other referenced standard, document, or law is inconsistent with the sovereign immunity of the YNHA or the Yakama Nation, such provision is not adopted by this Policy and is declared void, unenforceable, and severable from the remainder of this Policy.
- 200.6 Prior Policies.** This Policy supersedes all prior policies and communications on each covered subject. This Policy is a tool to assist YNHA personnel, and it does not create a contract or promise specific treatment in specific situations. The Board reserves the right to change, cancel or interpret any YNHA policies at its sole discretion and without prior notice.
- 200.7 Other Policies.** Other YNHA policies may apply and should be consulted and implemented in concert with this Policy.

Chapter 3 DEFINITIONS

- 300.1 “MH Program”** means the Mutual Help Homeownership Program or the Mutual Help Homeownership and Opportunity Program under the 1937 Housing Act.
- 300.2 “Home” or “MH Home”** means a dwelling unit constructed by YNHA under the MH Program.
- 300.3 “Homesite”** means the land where the Home was constructed. In the case of Tribally owned land that has not been subdivided, Homesite refers to the lot where the Home is sited, as identified in the most recent land survey.

- 300.4 “MH Agreement”** means a lease-option agreement between YNHA and the Homebuyer under the MH Program. The Homebuyer is a lessee during the term of the Agreement and acquires no equitable interest in the Home until the option to purchase is exercised.
- 300.5 “Homebuyer”** means a person or persons who have executed an MH Agreement and who have not yet achieved homeownership, consistent with the MH Agreement. References in this Policy to Homebuyer include a person who executed the Agreement as Homebuyer’s Spouse.
- 300.6 “Subsequent Homebuyer”** means, in the absence of a Successor Homebuyer, a person selected by YNHA from its waiting list, in accordance with YNHA policy, to enter into a new MH Agreement for the MH Home..
- 300.7 “Successor Homebuyer”** means (1) a qualified designated successor under the MH Agreement, or (2) in the absence of a qualified designated successor, a person designated by YNHA who meets the qualifications to be a successor under the existing MH Agreement.
- 300.8 “Homeowner”** means a former Homebuyer who has achieved ownership of a MH Home and has acquired a Bill of Sale to the Home from YNHA.
- 300.9 “Bill of Sale”** means the vehicle YNHA uses to convey MH Homes to Homebuyers under the terms of the MH Agreements. The Bill of Sale conveys the building only.
- 300.10 “Sublease”** means an Agreement between the Homebuyer or Homeowner and YNHA under which YNHA subleases its leasehold interest in the Homesite.
- 300.11 “Assignment”** means an Agreement between the Homebuyer or Homeowner and YNHA, under which YNHA assigns its leasehold interest in the Homesite.
- 300.12 “Homebuyer Financing”** means financing by YNHA of the purchase of a Home by an eligible Homebuyer who gives YNHA a Promissory Note
- 300.13 “Promissory Note”** means a written, signed promise of a Homebuyer, in the form provided by YNHA, to pay the remaining purchase price for a home as a condition of accepting and receiving a Bill of Sale.

Chapter 4 CONVEYANCE PROCESSING

- 400.1 Determining Eligibility.** YNHA determines a Homebuyer’s eligibility to receive a conveyance of the MH Home with reference to the terms of the MH Agreement. YNHA

will consider a Homebuyer to be eligible to receive a conveyance of the MH Home when either: (1) the Homebuyer has satisfied all of the obligations under the MH Agreement, or (2) twenty-five (25) years have passed since the current MH Agreement was signed.

400.2 Determining the Purchase Price.

400.2.1 Initial purchase price. The initial purchase price has already been determined for the MH Homes in YNHA's inventory, based on a formula prescribed by HUD. Once the purchase price was determined, YNHA developed an amortization schedule showing the monthly amortization of the initial purchase price, generally over a 25-year period.

400.2.2 Successor Homebuyers. The purchase price for a Successor Homebuyer is the amount of the initial purchase price still unpaid under the existing amortization schedule. A Successor Homebuyer assumes the existing MH Agreement and, generally, the existing amortization schedule.

400.2.3 Subsequent Homebuyers. The purchase price for a Subsequent Homebuyer is determined by YNHA, taking into consideration the value of the Home, the cost of any repairs YNHA needs to make to the Home before it is purchased, the amount of the initial purchase price that is still unpaid, and other relevant factors. A Subsequent Homebuyer enters into a new MH Agreement. YNHA develops a new amortization schedule over a period not to exceed 25 years, taking into consideration the lease term, the ability to make the required monthly payments, and other relevant factors.

400.3 When the Homebuyer May Purchase. A Homebuyer may purchase the Home at any time, on or after the date of occupancy, if the Homebuyer has met all of his or her obligations under the MH Agreement.

400.4 When the Homebuyer Must Purchase. The Homebuyer must purchase the home when the Homebuyer's Reserves and Account balances, less any amounts owed to YNHA, are equal to the Purchase Price of the Home, sometimes referred to as "paid-off status," or when twenty-five (25) years have passed since the current MH Agreement was signed, regardless of any unpaid charges.

400.5 Procedures for Conveyance.

4005.1 Initiation. The conveyance of MH Homes will be initiated by YNHA and in coordination with BIA Realty.

400.5.2 Accounting. The Accounting Department is responsible for maintaining the Homebuyer ledger in YNHA's Housing Data Systems ("HDS") program, showing the name of the Homebuyer; the project and unit number; the amount

in the Homebuyer's Reserves and Accounts; any amounts owed to YNHA (for unpaid monthly payments, insurance, utilities, maintenance, or other charges); and the Purchase price of the Home.

400.5.3 File Review. The Conveyance Specialist is responsible for reviewing the Homebuyer ledger in HDS to determine which Homebuyers must purchase their Homes.

1. Compiling the file. The Conveyance Specialist gathers necessary records pertaining to legal ownership and right to purchase, such as copies of the MH Agreement, the Homesite Lease, any legal documents in the file (e.g., divorce decree, probate order, etc.) and any other relevant documents.
2. Requesting land documents. The Conveyance Specialist obtains a copy of the Title Status Report ("TSR") on individual allotments from the Yakama Nation Realty Department. If necessary, the Conveyance Specialist may order a Title Status Report directly from the BIA Regional Land Title and Records Office ("BIA-LTRO"). If the TSR shows that the Homebuyer does not own 100% of the land interests in the Homesite, then the Conveyance Specialist may request contact information for the landowners, such as from the Tribal Enrollment office. The Conveyance Specialist also refers land issues to BIA Realty and may consult with the YNHA attorney on these matters. The Conveyance Specialist maintains a record of these efforts.
3. Open work orders. The Conveyance Specialist, working with the Maintenance Manager and the Housing Manager, determines whether there any open work orders. If there are work order charges that have not yet been posted to the Homebuyer account, the Housing Manager, in consultation with the Maintenance Manager and the Chief Financial Officer, determines which charges will be posted to the account. If the work is chargeable to the Homebuyer, but will not be posted to the account, the Chief Financial Officer must include this information in the Accounting Review. The following criteria apply:
 - a. Work orders must be posted to the account when the work is performed. If in reviewing an account for conveyance, YNHA determines that a work order either has not been posted, or that some of the charges (such as materials) have not been posted, and it has been over six (6) months since the work was performed, then the unposted charges are not charged to the Homebuyer account, unless the work was performed in response to an approved MEPA request, and YNHA has documentation signed by the Homebuyer requesting the work.

- b. If the total actual or estimated unposted charges for work orders is less than \$1,000 in the aggregate, the charges are not posted to the Homebuyer account.
 - c. If YNHA considers economic hardship as a factor to determine whether or not a Homebuyer's work order charges will be posted, the basis for the determination is documented in the file. Economic hardship may be considered if the Homebuyer is very low income (less than 30% of AMI).
4. Accounting review. After all work orders are closed, the Conveyance Specialist requests a final review by the Accounting Department. After that review is completed, the Conveyance Specialist prepares a draft Bill of Sale and the Lease Cancellation (if applicable) and may refer the account to the YNHA Attorney for legal review.
 5. Legal review. The YNHA Attorney may review documentation prepared by the Conveyance Specialist, request additional information as necessary, modify the Bill of Sale and Lease Cancellation (as applicable) and prepare a Board Resolution and Promissory Note (as applicable).

400.5.4 Board Approval. Upon resolution of any remaining issues, the Conveyance Specialist submits the conveyance documents to be presented to the Board of Commissioners for approval by Board resolution. Two originals of the conveyance documents are prepared for signature by the Chairman. The signed conveyance documents are then given to the Conveyance Specialist to arrange for the Homebuyer(s) to sign the conveyance documents at the YNHA Office.

400.5.5 Promissory Notes. YNHA will convey MH Homes whether or not there is an unpaid balance on the account. If the unpaid balance is \$800 or more at the time the Homebuyer signs the Bill of Sale, then the Conveyance Specialist will prepare a Promissory Note for the unpaid balance, which must be signed by the Homebuyer before accepting the Bill of Sale. The amount of the Promissory Note is based on the final account balance at the time the Homebuyer signs the Bill of Sale.

400.5.6 Acceptance. The Homebuyer(s) listed on the Bill of Sale must sign the Bill of Sale accepting the conveyance. The Conveyance Specialist notifies the Homebuyer(s) that the documents are ready to sign by preparing a notification letter to the Homebuyer(s) signed or concurred by the Housing Manager. The letter includes a statement of the current account balance, as well as the policy in subparagraph 400.5.5 for Promissory Notes. The Housing Manager or designee meets with the Homebuyer(s) when they sign the conveyance

documents, to answer any questions about insurance or other issues. After signing the documents, the Homebuyer receives a copy of the conveyance documents. If the Homebuyer refuses, or after six months has failed, to accept and sign the Bill of Sale and the Promissory Note (if applicable), then the Conveyance Specialist refers the account to the Deputy Director for further processing.

400.5.7 Recording. The Conveyance Specialist retains one set of signed original conveyance documents, and hand-delivers the second set of signed original conveyance documents to the BIA Realty Office for approval by the Superintendent (as required) and/or recording with BIA-LTRO. The Conveyance Specialist obtains stamped, conformed copies of any documents that are submitted to the BIA Realty Office. The documents are accompanied by a letter to the BIA Realty Office requesting that the BIA Realty Office send the Conveyance Specialist a copy of the Transmittal Notice or similar document generated by LTRO to confirm that the documents have been recorded. The Conveyance Specialist tracks the status of the BIA approval and recording through regular contact with the BIA Realty Office and keeps a written record of such contact. If BIA Realty fails to process the conveyance documents in a timely manner or raises any concerns about the documentation, the Conveyance Specialist may work with the YNHA Attorney to reach a resolution.

400.5.8 Effective Dates. Once the conveyance has been completed, the effective date of the conveyance is recorded in HDS. An important purpose of recording the effective date of conveyance is to have an accurate count of the number of units still under YNHA ownership.

1. If the Home is conveyed by a Bill of Sale (which does not require the approval of BIA) then the effective date of the conveyance is the date that both parties have signed the Bill of Sale. This is without regard to whether a Lease Cancellation or Assignment of Lease accompanies the Bill of Sale.
 - a. If the conveyance is approved before the house is paid off (see paragraph 5.a. of this Policy), the Homebuyer will not be allowed to sign the Bill of Sale or Lease Cancellation to receive the conveyance until all amounts owing are paid.
 - b. When there is also a Lease Cancellation or Assignment of Lease, YNHA maintains a record in HDS to reflect that the lease is still in force, until YNHA has received confirmation from BIA of the approval and recording of the lease.

2. If the Home is conveyed by a Bill of Sale and Lease Cancellation on the same document, (which, as a land document, requires BIA approval to be effective) then the effective date of the conveyance of the MH Home is the date YNHA receives the conveyance documents, such as from BIA Realty, from BIA-LTRO, or from the Homebuyer.
3. The Conveyance Specialist is responsible to enter the effective date of the conveyance into HDS. The Conveyance Specialist also is responsible to notify the Accounting Department so that the insurance company and any utility providers may be notified of the separation of billings.
4. If the conveyance involves a promissory Note and mortgage, the BIA mortgage approval process must be followed and the signing and recording of the Bill of Sale and other documents will be coordinated with the BIA approval of the mortgage. The Conveyance Specialist may work with the YNHA Attorney.

400.5.9 Records. Copies of all correspondence, conveyance documents, and pay off information are maintained in a conveyance file and in the Homebuyer file, as applicable, for a period of seven years from the effective date of the conveyance.

Chapter 5 LAND INTERESTS

500.1 Ownership of Improvements. In general, under the Homesite leases, YNHA owns the improvements (i.e., the Home) until the expiration of the lease, when the improvements become owned by the landowner. The Homesite leases also state that the lease extends to and is binding on the heirs and assigns of the parties. *See* BIA Form 5-6404 (March 1976). Thus a change of landowners (e.g., through sale, gift or inheritance) has no effect on YNHA's continued ownership of the Home while the lease is in effect, but may have an effect on the Homebuyer who takes YNHA's interest under the Bill of Sale. When the lease cancels, if the Homebuyer is not also a 100% landowner, the ownership interests may conflict.

500.2 Conveyance of Land Interests. At or after conveyance of the Home, YNHA has the following options:

500.2.1 Homebuyer is 100% landowner. Mutually cancel the lease. This is the preferred option when the Homesite is on an individual trust allotment, and is almost always used when a Homebuyer is a 100% owner of the Homesite.

500.2.2 Homebuyer is not 100% landowner.

1. Yakama Nation owns the Homesite: Convey the Home without a land interest. This is the option that has been utilized historically when the Homesite is an undivided lot on Tribal trust land covered by a master lease between YNHA and the Yakama Nation (e.g., Buena Way and Mamachat). Another potential option is a Sublease (*see* below).
2. Other individuals are landowners (either in common with the Homebuyer or the Homebuyer owns no land interests): YNHA prepares a Request for Lease Cancellation to be submitted to the Superintendent. YNHA will refer the Homebuyer to the Realty Office for help resolving land issues, such as securing a new land lease from the (other) landowners, or submitting an offer to purchase the land interests.

500.2.3 Sublease. YNHA may sublease YNHA's partial leasehold interest to the Homebuyer. This method may be utilized when the Homesite is an undivided lot on Tribal trust land covered by a master lease between YNHA and the Yakama Nation (e.g., Buena Way and Mamachat), subject to any Tribal approvals. The sublease must be in writing signed by the Homebuyer and YNHA and there must be a legal description of the subleased area. The Homebuyer must agree in writing to comply with all land lease obligations, as applicable and any additional terms of the sublease. The term of the sublease may not extend past the term of the underlying lease, but may be for a shorter period.

500.3 Homebuyers Who Are Not Eligible to Own Yakama Trust Land. Under the MH Agreement, "Homebuyer" is defined as anyone who signed the MH Agreement. The MH Agreement states that the Homebuyer may purchase YNHA's interest in the Home. Some signers (e.g., Homebuyer's spouse) are not Yakama Tribal members and are not eligible to receive a conveyance of Yakama Trust land. To help avoid a situation in which a non-Yakama owns the Home, but can never own the land, YNHA offers the following options:

500.3.1 Clustered Sites. If the Home is on Tribal-owned land, YNHA offers to convey its interest in the Home to the Yakama Tribal member Homebuyer. If there is no surviving Homebuyer who is an enrolled Yakama Tribal member, the Homebuyer may be permitted to relinquish his or her interests to an adult child or grandchild or other person who is an enrolled Yakama Tribal member and YNHA will convey the Home to that person. The Executive Director may consider making an offer to purchase the MH Home, in a manner consistent with Board policy. The Conveyance Specialist may request the assistance of the YNHA Attorney to help resolve land issues.

500.3.2 Scattered Sites. If the Home is on a scattered site (i.e., not Tribal-owned), and one of the Homebuyers is a Yakama Tribal member who is also a landowner, YNHA offers to convey its interest to the Yakama Tribal member landowner. If neither of the Homebuyers has any ownership of the land, then YNHA follows the process in paragraph 500.2.b.

500.4 Lease Cancellation. Upon conveyance of the MH Home, and cancellation of the lease, YNHA will no longer have any interest in the MH Home or the Homesite. If use rights to the land are not granted to the Homeowner by the landowner and there is a conflict over the occupancy of the MH Home, the matter should be referred to BIA Realty to assist the parties..

Chapter 6 SUCCESSORS AND SUBSEQUENT HOMEBUYERS

600.1 Applications. In order to be approved as either a Successor Homebuyer or a Subsequent Homebuyer, a person must complete an application with YNHA and YNHA must first determine that the family is eligible for services under NAHASDA and the YNHA Eligibility, Admissions and Occupancy Policy, and that the person is able to fulfill the responsibilities of a Homebuyer.

600.2 Successor Homebuyers. A Successor Homebuyer assumes the obligations of the MH Agreement in the event of the Homebuyer's death or incapacity (and under some MH Agreements, also abandonment). A Homebuyer may also Relinquish the MH Home to a person of his/her choosing, provided the person meets eligibility requirements, see paragraph 600.1. Once determined eligible by YNHA, the Successor Homebuyer will agree in writing to assume the obligations of the Homebuyer under the original MH Agreement and to pay the remaining amount of the purchase price and other charges.

600.3 Subsequent Homebuyers. In the absence of a Successor Homebuyer, YNHA may select a Subsequent Homebuyer from its waiting list. After having been determined to be eligible and able to fulfill the responsibilities of a Homebuyer, the Subsequent Homebuyer enters into a new MHOA with YNHA, with a new amortization schedule. The purchase price is determined as per paragraph 400.2.3 of this Policy.

Chapter 7 MISCELLANEOUS

700.1 Suspension of New Charges. After the Board of Commissioners has approved a Home for conveyance and has signed the Bill of Sale, there will be no new work performed on the unit and no other work order charges incurred. The \$25 per month administrative charge will continue to accrue and the Home will continue to be insured until the

Homeowner has accepted and signed the Bill of Sale and the Promissory Note (if applicable).

700.2 Delays in Conveyance. If the Homebuyer refuses, or after six months, has failed to accept and sign the Bill of Sale and the Promissory Note (if applicable), then the Deputy Director will consider other options to complete the conveyance. This may include a meeting to answer any questions and remind the Homebuyer that the MH Agreement requires purchase of the Home. If there is no debt and the Home is on a scattered site, then YNHA may process a Request for Lease Cancellation with BIA, which will divest YNHA of the improvements, with or without a Bill of Sale.

700.3 Assistance after Conveyance. Until the conveyance is accepted and the Promissory Note (if applicable) is signed, the Homebuyer is not eligible for assistance under other YNHA programs. After the paperwork has been signed and accepted and the home is conveyed, the new Homeowner may apply for assistance under other YNHA programs, such as the Elder Minor Home Repair program or the Homeowner's Home Repair Program, provided the Homeowner makes his payments as scheduled under the Promissory Note. Default on a Promissory Note will make a Homeowner ineligible for any future services from YNHA until the default is cured.

700.4 Collection of Debts on Conveyed Homes. When a conveyance becomes effective, the Conveyance Specialist notifies the Accounting Department (see paragraph 400.5.8.c). If the Homebuyer account has a balance of less than \$800, then the YNHA Accounting Department will process the debt for write-off under the YNHA Write-Off Policy. The Conveyance Specialist will provide the Accounting Department with the original Promissory Note, and give a copy to the Compliance Specialist. Should the Homeowner default on the Promissory Note, the Compliance Specialist will notify the Housing Manager to enter a notation of the default in HDS, for purposes of determining continued eligibility for other YNHA programs. The Compliance Specialist will make best efforts to collect the debt. When the debt is paid off, the original Promissory Note will be marked "Paid in Full" and placed in the Homeowner file.

700.5 Conversion to Rental. As an alternative to accepting conveyance with a Promissory Note, a Homebuyer may ask to have YNHA convert the unit to a rental unit. In such cases, the parties will mutually terminate the MHOA, under the procedures provided in the MHOA. If the home is on a scattered site, YNHA will not agree to convert the unit or expend funds on the unit as a rental without first having site control through an approved land lease with the landowner for the useful life of the unit.