



## Title 6. Property and Land – Chapter 602

LEASING

### Rule # 6 – Homeownership by Independent Purchase (HIP) Program

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#### 1.1. Purpose and Policy

1.1-1. *Purpose.* The purpose of the Homeownership by Independent Purchase (HIP) Program is to expand the services being offered to Tribal member's by providing a program in which the Tribal member buyer initiates a purchase in which the buyer purchases the improvements and the Tribe purchases the land. These rules are developed pursuant to the Real Property law, which requires all transactions adding property to the Tribal land base be administered through the Oneida Comprehensive Housing Division.

1.1-2. *Policy.* The policy behind the HIP Program is to increase Tribal member homeownership and the land base available for the fee-to-trust process while simultaneously affording Tribal members greater independence in the purchase process by requiring the buyer to negotiate the purchase offer independent of the Tribe.

#### 1.2. Adoption, Amendment and Repeal

1.2-1. This rule was adopted by the Comprehensive Housing Division and the Oneida Land Commission in accordance with the procedures of the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the Comprehensive Housing Division and the Oneida Land Commission and/or the Oneida Business Committee pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule shall control.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to entering a residential lease following simultaneous purchase of improvements by the buyer and the land by the Nation.

#### 1.3. Definitions

1.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) "Buyer" means the potential lessee entering into the offer to purchase to purchase the improvements.
- (b) "Defect" means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.
- (c) "Improvement" means buildings, other structures, and associated infrastructure

attached to land.

- (g) “Offer to Purchase” means the written contract made by the buyer, accepted by the seller and approved by the Nation in which the buyer agrees to purchase the improvements upon the land and the Nation agrees to purchase to land.
- (h) “Reservation” means all the property within the exterior boundaries of the Reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.
- (i) “Residential Lease” means the legal document issued by the Nation pursuant to its applicable leasing laws and rules which establishes a buyer’s right to occupy Tribal land for residential purposes.
- (j) “Survey” means the measurement of the boundaries of land and its area. A survey will reveal building setbacks as well as any encroachments.
- (k) “Tax Assessed Value” means the value the local taxing authority uses to distinguish the value of the land from the improvements.
- (l) “Total Purchase Price” means the total amount offered to the seller for the acquisition of the improvements and the land.
- (m) “Tribal Fee Land” means land held in fee status by the Nation.
- (n) “Tribal Trust Land” means the surface estate of land or any interest therein held by the United States in trust for the Nation; land held by the Nation subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes; and/or land held by the United States in trust for the Nation under Section 17 of the Indian Reorganization Act, 25 U.S.C §477, et. seq.

#### **1.4. General**

1.4-1. *Program Education.* CHD shall make these rules and all relevant educational pieces and required paperwork available electronically on its website and in hard-copy format at their respective offices.

1.4-2. *Subject to Available Funding.* All offers submitted to the Nation are subject to the Nation’s available funding with all purchases taking place pursuant to Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure.

1.4-3. *Nation Determines Defects.* The Nation reserves the sole right to determine whether defects exist in relation to the contingencies related to the title commitment, survey and environmental investigation required under Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure.

1.4-4. *Real Estate Taxes.* All homeowners, upon signing a residential lease, will be responsible for all taxes assessed against the improvements. The homeowner’s real estate tax payment shall be the percentage of the total assessed taxes equal to the assessed value of the improvements divided by the assessed value of the improvements and the land combined plus any municipal fees and/or special assessments. If/when the property converts from tribal fee land to tribal trust land, the homeowner will have no tax responsibility for the improvements.

1.4-5. *Financing.* In the event a loan is required for the improvements, homeowners may secure said financing from Bay Bank or the Comprehensive Housing Division Finance Department, provided that any financing secured from the Comprehensive Housing Division is subject the Mortgage and Foreclosure law and any accompanying rules.

1.4-6. *HIP Program E-Mail Address and Shared Drive.* Comprehensive Housing Division shall work with the Nation’s MIS Department to establish a HIP Program e-mail, which shall be

available to accept all required submittals electronically, and a shared drive so that HIP Program documents may be jointly accessed by the Comprehensive Housing Division and Land Management. The Comprehensive Housing Division Residential Leasing Specialist shall be the HIP point of contact and the administrator of the shared HIP Program e-mail and shall be the only party to respond to buyer e-mails, except that the Acquisition Manager is authorized to respond to offers to purchase that require an immediate response outside of business hours in accordance with section 1.7-5.

### **1.5. Eligible Buyers**

1.5-1. In order to be eligible to participate in the HIP Program, the buyer must:

- (a) Be an enrolled member of the Oneida Nation;
- (b) Have adequate funds available for the purchase of the improvements or be able to secure financing, including any required down payments, provided that the total purchase price after the tax assessed value of the land is deducted may not exceed \$250,000; and
- (c) Be eligible to enter a residential lease with the Oneida Nation based on the Leasing law and any applicable residential leasing rules.

### **1.6. Eligible Properties**

1.6-1. In order for a property to be eligible for an offer to purchase pursuant to the HIP Program, it must comply with the requirements of Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure.

### **1.7. Required Process**

1.7-1. *Residential Lease Application.* In order to initiate the HIP process, the buyer shall complete an Oneida residential lease application with either the Residential Leasing Specialist or the lender, which shall include notice of process provisions related to this program.

1.7-2. *Pre-approval.* Once the Oneida residential lease application is complete, the buyer shall request a certificate of pre-approval from Bay Bank and/or the Comprehensive Housing Division Finance Department which expires within one hundred twenty (120) days and provides the maximum amount of financing available towards a home purchase. The lender shall provide a copy of the pre-approval to the Residential Leasing Specialist.

1.7-3. *Real Estate Agent Representation Optional.* Upon receipt of a certificate of pre-approval, the buyer may choose to be represented by a real estate agent, but representation is not required. The buyer may request a list of real estate agents familiar with the HIP Program from the Residential Leasing Specialist. The Acquisition Manager shall maintain said list based on the real estate agents that have completed the training pursuant to Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure and shall provide updated lists to the Residential Leasing Specialist as needed.

1.7-4. If the buyer finds a potentially eligible property they would like to purchase, the buyer shall make an offer to purchase to the seller using the offer to purchase form available with Comprehensive Housing Division. The Nation may not assist buyers in making and/or negotiating an offer to purchase.

- (a) The offer to purchase form available with the Comprehensive Housing Division must, at a minimum, contain contingencies relating to:
  - (1) The real estate condition report in the format required by Wisconsin law;

- (2) The home inspection, which is an examination of the improvements' construction, condition and internal systems to establish the structural and mechanical integrity completed by certified home inspector.
  - (3) The environmental inspection, which must be completed by the Nation at the Nation's expense;
  - (4) The title commitment, which is the document by which a title insurer discloses to all interested parties the liens, defects, burdens and obligations that affect the subject property;
  - (5) The survey or plat map, which provides the measurement of the boundaries of land and its area and reveals building setbacks as well as any encroachments;
  - (6) If the property is on a septic system, the septic system inspection;
  - (7) If the property is served by a well, the well water testing, which must analyze the water's bacteria and nitrate levels, and, if in Outagamie County, the arsenic levels, to determine whether the water is safe for human consumption;
  - (8) If the property is served by a well, the well system inspection, which reveals information such as the well depth, date of construction, protective clay layers, drilling stipulations; and
  - (9) The closing papers and costs.
- (b) All terms of the offer to purchase are non-negotiable with the exception of the following:
- (1) Whether the buyer or seller is responsible for paying for the reports and forms required by the contingencies, except the environmental report, which is the responsibility of the Nation;
  - (2) The closing date, provided that, it must be a minimum of sixty (60) calendar days from the date the offer is accepted by all required approving parties unless an alternative closing date is agreed upon by all parties;
  - (3) The purchase price for the improvements; the purchase price of the land must be determined by the tax assessed value of the land;
  - (4) The items included in the purchase price;
  - (5) The amount of the earnest money; and
  - (6) The closing prorations.

1.7-5. *Nation's Approval.* If the buyer makes an offer to purchase that is accepted by the seller, the buyer shall present the accepted offer to purchase to the Leasing Specialist within five (5) calendar days from the date of acceptance; this initiates the Nation's approval process.

- (a) Immediately upon receipt of an accepted offer, the Residential Leasing Specialist shall:
- (1) Forward the offer to purchase to the Acquisition Manager along with the buyer's pre-approval and residential lease application;
  - (2) If the offer to purchase is not submitted with the Land History Questionnaire and/or the Real Estate Condition Report, provide notice to the buyer that said documents must be submitted to the Comprehensive Housing Division within five (5) business days from the date the offer to purchase is submitted – when received, the Leasing Specialist shall immediately forward said documents to the Acquisition Manager; and
  - (3) Notice the buyer that the survey is due to the Comprehensive Housing Division no later than twenty (20) calendar days prior to closing. Immediately upon receipt of a survey from the buyer, the Leasing Specialist shall forward the

survey to the Acquisition Manager.

- (b) Upon receipt of an accepted offer, the Acquisition Manager shall:
  - (1) Notify the Residential Leasing Specialist of any time acquisition funds are depleted or near depletion.
  - (2) Do all checks required under Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure to determine if the property is eligible and notify the Residential Leasing Specialist if there are any defects to title that would make the homeowner or their property ineligible pursuant to Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure.
  - (3) If the property is determined to be eligible sign the offer to purchase on behalf of the Nation and forward to the Residential Leasing Specialist, provided that prior to signing, the Acquisition Manager shall obtain any Land Commission approvals required under Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure.
- (c) Upon receipt of an offer to purchase signed by the Nation, the Residential Leasing Specialist shall:
  - (1) Forward the offer to purchase received from the Acquisition Manager to the homeowner and the lender; and
  - (2) Obtain any Oneida Land Commission approvals required in order to enter a residential lease with the buyer.
- (d) If, subsequent to signing the offer to purchase, the Nation has a concern related to the contingencies, the Acquisition Manager or their designee shall work with relevant parties to resolve the issue and shall immediately notify the Residential Leasing Specialist and the lender of the issue and provide instructions as whether and how the issue may be corrected so that the information is able to be communicated to the buyer and eligibility is able to be confirmed in accordance with Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure.

1.7-6. *Pre-Closing.* The lender shall notify the buyer, the Residential Leasing Specialist and the Acquisition Manager of the date, time and location of the closing. If Bay Bank is providing financing, then upon receipt of closing date, the Residential Leasing Specialist shall forward information, including the closing date, to the Senior Loan Officer to create an assignment of lease for financing using the closing date as the effective date. The Senior Loan Officer shall provide the assignment of lease for financing to the Residential Leasing Specialist prior to the closing date.

1.7-7. *Land Commission Approval.* Land Commission approval is deemed granted based on approval of this rule and is not required for each purchase except as specifically noted in the Residential Leasing Rule or Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure.

1.7-8. *Closing.* Closing responsibilities are distributed as follows:

- (a) The Acquisition Manager shall attend closing and:
  - (1) Bring the check for the value of the land to the closing;
  - (2) Bring any other documents required by the Nation to the closing, which may include affidavits; and
  - (3) Sign closing documents on behalf of the Nation.
- (b) The Residential Leasing Specialist shall attend closing and:
  - (1) Bring the residential lease documents that have been signed on behalf of the

- Nation to the closing; and
- (2) If Bay Bank is providing financing, bring the assignments of lease for financing that has been signed on behalf of the Nation to the closing.
- (c) The homeowner shall sign the following documents at the closing:
  - (1) Any applicable loan documents;
  - (2) Closing statements;
  - (3) The three (3) original residential leases;
  - (4) If applicable, the assignment of lease for financing; and
  - (5) Any other required documents.
- (d) The lender shall bring the following to the closing:
  - (1) The loan documents and any other bank required documents; and
  - (2) Closing statements for the improvements.
- (e) Bay Title shall bring the following to the closing:
  - (1) Closing statements for the land and improvements;
  - (2) The deed; and
  - (3) Any other required documents.

1.7-9. *Post-Closing.*

- (a) If Bay Bank is the lender, post-closing responsibilities are distributed as follows:
  - (1) Bay Bank shall:
    - (A) Provide Bay Title with the mortgage, the assignment of lease for financing and an original residential lease;
    - (B) Ensure that Bay Title recorded the mortgage and the assignment of lease for financing; and
    - (C) Provide the original recorded mortgage and assignment of lease for financing to the Comprehensive Housing Division's Finance Department.
  - (2) The Acquisition Manager shall:
    - (A) Ensure that Bay Title provided a final title policy include said policy in the Land Management file;
    - (B) Ensure that Bay Title complied with Wisconsin's electronic transfer return requirements;
    - (C) Ensure that Bay Title recorded the deed with the county register of deeds and once received, record the county recorded deed with the Oneida Nation Register of Deed;
  - (3) The Comprehensive Housing Division shall:
    - (A) Once all the original recorded documents have been received, record the following with the Oneida Nation Register of Deeds:
      - (1) The residential lease;
      - (2) If applicable, the mortgage; and
      - (3) If applicable, the assignment of lease for financing.
    - (B) Return the original mortgage and assignment of lease for financing to Bay Bank once they have been recorded with the Oneida Nation Register of Deeds.
- (b) If the Comprehensive Housing Division Finance Department is the lender, post-closing responsibilities are distributed as follows:
  - (1) The Acquisition Manager shall:

- (A) Ensure that Bay Title provided a final title policy include said policy in the Land Management file;
  - (B) Ensure that Bay Title complied with Wisconsin's electronic transfer return requirements;
  - (C) Ensure that Bay Title recorded the deed with the county register of deeds and once received, record the county recorded deed with the Oneida Nation Register of Deed;
- (2) The Comprehensive Housing Division shall record the following with the Oneida Nation Register of Deeds:
- (A) The residential lease; and
  - (B) The mortgage.

*End.*

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