



Housing Authority Models

MODEL ONE: HOUSING COMMITTEE
ESTABLISHED BY CHIEF IN COUNCIL

Assembly of First Nations
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MODEL ONE: HOUSING COMMITTEE ESTABLISHED BY CHIEF IN COUNCIL

GOVERNANCE

RESPONSIBILITIES

In this model, governance of the housing portfolio is the responsibility of a housing committee composed of the Councilor responsible for housing for the First Nation along with volunteer representatives from the community and from the social housing sector via delegated authority by the Chief in Council. It is recommended that there be between five and seven community volunteers on the council, and that these volunteers be representative of community diversity (youth, elders, single parents, and so on) in order to give voice to individuals and families in the community of differing needs, and that volunteer professional representatives be sourced from various sectors within the social housing frame, including (but obviously not limited to) contractors, housing administrators, social workers, legal experts, and so on.

In order for this model of governance to function optimally, goals and objectives for the housing committee would be established by Chief in Council in partnership with the Councilor responsible for housing along with policies and procedures to realize these objectives, and would result in a binding document similar in structure and content to a non-profit society's Constitution and Bylaws or a cooperative's Memorandum and Rules which would serve as a guiding document for members of the housing committee and housing authority and a resource for members of the general community. The housing committee would be responsible for developing and amending policies (as necessary) affecting the First Nation's housing portfolio, and the housing authority would essentially be responsible for the day-to-day decision-making and management / administration functions associated with the operation of social housing developments. The precise governance responsibilities of each party will vary case-to-case depending upon what amount of authority is vested in the housing committee by the Chief in Council, but generally speaking the division of responsibilities should look something like the following in order to ensure optimal performance and accountability:

Chief in Council

Responsible for:

- (1) Delegating authority for the administration of the housing portfolio to the housing committee;
- (2) Developing policies and procedures to guide the administration of the housing portfolio, including policies and procedures to govern financial and administrative reporting mechanisms, resident/tenant/member selection, and so on – this may be done in cooperation with the Councilor for housing;
- (3) Monitoring the work of the housing committee, and reporting on the housing committee's progress to the community;
- (4) Acting as an appeals/dispute resolution mechanism when problems arise between the housing committee and members that can not be satisfactorily solved by the housing committee;

- (5) Depending upon the division of powers decided upon by the Chief in Council, either sole or shared responsibility for decision-making regarding financial matters including large expenditures and determining rental/housing payments; and
- (6) Sole responsibility for identifying possible funding and financing sources for housing projects and acquiring such funding and financing.

Councilor Responsible for Housing

As Chair of the housing committee, the Councilor responsible for housing for the First Nation is responsible for:

- (1) Monitoring and overseeing the operations of the housing committee and housing authority in order to ensure that the day-to-day activities of the housing committee and authority are furthering the goals of the committee, and that the First Nation's housing policies and procedures, agreements, guidelines, and mandates are followed;
- (2) Calling meetings of the housing committee, preparing (with the assistance of the housing coordinator) agenda items for meetings, presiding over meetings in order to ensure proper protocol, etc.;
- (3) Reporting issues to and from the Chief in Council and housing committee and housing authority;
- (4) Ensuring that conflicts of interest or the appearance of potential conflicts of interest are avoided in the staffing of the committee, and in the event that a conflict of interest does arise reporting this immediately to the Chief in Council and resolving the issue in a timely fashion; and
- (5) Reporting to the Chief in Council on all aspects of the committee's operations, and ensuring that all reports are accurate and follow reporting requirements laid out by Chief in Council.

Housing Committee

Responsible for:

- (1) Ensuring accessibility of the committee and its operations to members of the community;
- (2) Drafting housing policies and making housing policy recommendations to Chief in Council regarding all aspects of the administration of the First Nation's housing portfolio, including new construction, maintenance, rental units, repairs, tenant selection, and so on;
- (3) Making recommendations concerning budgeting and expenditures for programs and submitting these to Chief in Council for approval; and
- (4) Reviewing and making changes (or making recommendations for changes) to housing policies as needed.

It is recommended that terms of membership in the housing committee be staggered in order to ensure a constant presence of experienced members. Two options for membership rotation have been identified:

- (1) *3 year terms for members* – begin with: 2 members holding 1 year terms, 2 members holding 2 year terms, and the remainder of members holding 3 years terms. As each term ends and members are replaced, new members will all hold 3 year terms, ensuring staggered rotation of the membership.
- (2) *2 year terms for members* – begin with: 3 members holding 1 year terms, and the remainder holding 2 year terms. As each term ends and members are replaced, new members will all hold 2 year terms, ensuring staggered rotation of the membership.

Housing Committee Members

Responsible for:

- (1) Attending all housing committee meetings;
- (2) Monitoring housing projects and programs;
- (3) Maintaining contact with members of the community in order to be up-to-date on the general needs and concerns of Band members in relation to housing and housing programs;
- (4) Making recommendations to Chief in Council regarding housing policies and programs; and
- (5) Keeping up-to-date on relevant First Nations policies and bylaws.

Housing Authority

Responsible for:

- (1) Identifying and prioritizing community housing need and determining financial resources required;
- (2) Day-to-day decision-making and administration of the housing portfolio (e.g. evaluating tenancy/member applicants) and ensuring that decisions are made with the best interests of the community in mind;
- (3) Completing quarterly financial and administrative reports for review and use by housing committee and Chief in Council;
- (4) Budgeting and planning for the sustainable administration of the First Nation's housing portfolio;
- (5) Ensuring that policies and procedures are followed in accordance with principles of transparency and consistency; and
- (6) Overseeing construction and maintenance activities in order to ensure the sustainability of the housing portfolio.

OPERATIONS

RESIDENT RELATIONS

Tenant / Member Eligibility Policies

Depending upon what level of authority is vested in the housing committee by the Chief in Council, either the housing committee, the Chief in Council, or ideally the two in partnership will establish a clear and defensible membership eligibility policy. The policy must be consistently applied to all applicants and must be in keeping with the

goals and objectives of the housing committee in addition to complying with provincial tenancy and human rights legislation. Separate policies must be developed for each individual project or program administered by the housing committee in order to reflect differences in project goals. For example, the criteria for selecting tenants for an urban youth at risk program will be different from those used to select tenants for a supportive seniors' development, which in turn will differ from criteria used to select applicants for a subsidized home-ownership program.

Calculating Rent / Housing Payments

Depending upon the types of housing programs being offered, the Chief in Council in partnership with the housing committee will be required to establish procedures for the housing authority to follow in calculating rental and housing payments for tenants and homeowners in need of rent-geared-to-income (RGI) housing or subsidized homeownership. The calculations must be followed consistently for all tenants / homeowners. While there is latitude here for First Nations to decide for themselves how income, employment, and so on will be defined and determined, as a general rule the Canadian government has determined that for housing to be considered "affordable" individuals / families must not be required to pay more than 30% of their gross monthly income toward shelter.

Appeals Process

Band members are eligible to appeal any decision made by the housing authority or housing committee regarding the selection process for rental allocation and loans, and it is recommended that they also be able to appeal decisions regarding calculations of financial assistance amounts. Appeals must be made within 10 days of receipt of selection or calculation decisions, and delivered in writing to the housing authority. An appeal will be held at the next housing committee meeting if one is scheduled within the next 2 weeks, and if not then the Councilor responsible for housing is responsible, as Chair of the committee, for calling a special meeting. The Appellant will be given the opportunity to present his/her case at the meeting, and then the housing committee will be left to deliberate in private and review the case. The housing committee will then issue a recommendation to the Chief in Council regarding the case, and the Chief in Council will be responsible for making a final decision regarding the appeal within 2 weeks of receipt of the housing committee's recommendation.

Income Mixing

In order to ensure the financial viability of social housing developments, it is generally recommended that specific percentages of housing units be reserved for tenants requiring subsidy assistance and those not requiring subsidy assistance, or RGI and non-RGI tenants. Mixed income developments ensure a steady source of income for developers by reserving a portion of their available units for those able to cover the entire cost of monthly housing payments without assistance in order to offset "losses" or minimize repayments on loans that accrue as a result of subsidizing housing costs for those partially (i.e. people who are seasonally employed or under-employed and can thus cover part of their shelter costs) or heavily (i.e. those who are severely under-employed or unemployed

and unable to make substantial shelter payments) reliant on subsidy or assistance programs.

ADMINISTRATION

Operating Agreements

It is recommended that the Chief in Council in partnership with the Councilor for housing develop an operating agreement for each committee-administered program in order to provide guidance for the administration of the First Nation's housing portfolio. The operating agreement should include, but not be limited to, the following:

- (1) Description of the division of powers between the Chief in Council and the housing committee, including the roles and responsibilities of each;
- (2) Budgeting, financial, operational and administrative reporting requirements (including independent auditing requirements, when and how audits are to be conducted, etc.);
- (3) Criteria for selecting tenants / members;
- (4) Procedure for calculating tenant / homeowner rental or housing payments; and
- (5) Dispute resolution / appeals procedures.

Tenancy Agreements

When any individual or group engages in housing provider activities they automatically acquire all the rights and responsibilities traditionally associated with being a landlord. Thus the Band Council, via delegated authority to the housing committee for the operation and management of the Band's housing portfolio, is landlord to all individuals and families residing in Band-owned housing units, and must fulfill the responsibilities of a landlord in their dealings with tenants. One of these responsibilities is the requirement, found in all provincial tenancy Acts, that landlords maintain tenancy or "lease" agreements with all tenants in all housing developments, detailing the terms and conditions of tenancy (e.g. length of occupancy, amount of rental payments and when payments are due, responsibility for payment for utilities and services, guidelines for termination of tenancy by either party to the agreement, etc.) as well as detailing the responsibilities of the landlord and those of the tenant (e.g. maintenance responsibilities, etc.). All tenancy agreements must comply with provincial tenancy Acts, human rights legislation, and relevant goals/principles of the council as identified in its operating agreement. Any tenancy agreement provisions that violate applicable tenancy or human rights legislation are void. The Council as landlord and tenants have recourse to the same provincial dispute resolution mechanisms (generally tenancy tribunals established by provincial Act) if they have reason to believe that the terms of their tenancy agreement or provisions found in provincial tenancy Acts have been violated.

Records Management

The housing committee in cooperation with the Chief in Council will be required to ensure that accurate, detailed, and up-to-date records are maintained for the various administrative aspects of the council's housing-related activities. Reporting requirements will be clearly defined in the housing agreement, but generally speaking it is considered a

good governance practice for housing providers to maintain the following types of records: Operational Records (including program information, day-to-day operational information, building records, and minutes of meetings), Administrative Records (including copies of reports and agreements, insurance information, financial reports and information, personnel and membership information, etc.), and Applicant and Tenant Records (including copies of tenancy agreements, correspondences between the housing committee and tenants, and all personal and financial information concerning applicants and tenants compiled during the course of application and / or tenancy).

FINANCIAL MANAGEMENT

POLICIES AND PROCEDURES

It is imperative that the Chief in Council develop detailed record-keeping policies and procedures to be followed by the housing committee and housing authority which are in keeping with generally accepted accounting practices and good governance principles (i.e. financial audits should be performed at least once annually by a registered independent accountant, and audit findings should be made available to the community, etc.). Policies and procedural guidelines must also be established to govern spending authority (e.g. when can the housing committee authorize expenditures and when must expenditures be approved by Chief in Council), purchasing of goods and services (provincial legislation should be consulted to determine when projects must be tendered and how, or if a simple contract is sufficient), annual budgeting, and, as previously discussed, guidelines for calculating rent/ housing payments. This is important not only to ensure accountability of the housing committee and housing authority to the Chief in Council, but also to ensure accountability of the Chief in Council, housing committee, and housing authority to the community which they serve.

Chief in Council

Responsible for:

- (1) All aspects of program funding and financing, including researching possible funding and financing sources and acquiring funding and financing;
- (2) Ensuring that annual financial audits for all housing programs are complete and available to Band members; and
- (3) Approving and directing the housing committee on all budget and finance-related policies.

Housing Committee

Responsible for:

- (1) Delegating responsibility for the day-to-day financial operations of the housing portfolio to the Housing Coordinator or Financial Manager;
- (2) Creating an annual budget for the administration of the First Nation's housing portfolio, subject to the approval of the Chief in Council;
- (3) Monitoring financial operations of the housing authority, making recommendations on financial decisions to the Chief in Council; and

- (4) Ensuring that the First Nation's financial policies are being properly implemented.

Housing Authority

Responsible for:

- (1) Day-to-day financial responsibilities associated with the operation and administration of the housing portfolio; and
- (2) Completing accurate quarterly financial audits and reporting to the housing committee and Chief in Council.

BUDGETING

The housing committee is responsible for annual budgeting for the following categories of the administration of the housing portfolio, subject to the approval of the Chief in Council:

- repair loans
- new construction loans
- septic and water loans
- First Nations rental units
- maintenance salaries and expenses
- insurance payments
- administration fees and salaries
- lot servicing costs
- training expenses
- loan payments and other services / charges necessary to the housing program(s)
- housing subsidies
- lot servicing subsidies
- rent collection payments
- loan / mortgage collection payments
- CMHC grants
- Band revenue contributions
- loans and other grants that may be received for labour or materials for both construction or repairs

REPLACEMENT RESERVE FUNDS

It is highly recommended that First Nations administering rental housing programs maintain replacement reserve funds in order to ensure that essential items can be replaced as needed. Replacement reserve funds are used to replace items such as floor coverings, appliances, window coverings, and so on, once they have exceeded their useful life. A separate bank account should be maintained solely for the reserve fund, and it is generally accepted that if reserve funds are to be invested they are only to be invested in "secure" ventures such as savings and checking accounts, term deposits, government bonds, and so on. It is a good idea for any housing developer with limited resources or insecure funding to maintain a replacement reserve fund as a mechanism for ensuring the sustainability of the development.

Calculating Replacement Reserve Funds

The amount of reserve funding required will vary development by development, and should be calculated within the first year of operation and deposits made into the fund account either on a monthly or annual basis. The method for calculating required replacement reserve funds is as follows:

(cost of item **X** number of items) \div estimated / average useful life of item

This calculation must be completed for all replaceable items, and then the figures added together. The resulting figure represents the total amount of money that must be deposited into the replacement reserve fund annually in order to cover necessary expenses.

PRIVATE HOMEOWNERSHIP FINANCING PROGRAMS

There are numerous options available to First Nations seeking to assist community members in pursuing homeownership depending upon whether First Nations prefer to engage in direct financing or financial facilitation of homeownership initiatives, the three most common being: (1) acting as a loan guarantor, (2) the administration of a revolving loan / mortgage fund, and (3) administration of a rent-to-own program.

Revolving Loan / Mortgage Programs

One way in which First Nations can provide financing for potential homeowners is through what is known as a revolving loan or mortgage program. In this type of program, the Band provides a capital fund to be administered by the housing authority to eligible potential homeowners in the form of direct loans or mortgages which are paid back into the fund in monthly installments. When properly managed, revolving funds provide a sustainable funding source for community members in need of financial assistance while reducing community reliance on external financing bodies such as the CMHC and other financial institutions. If a First Nation under this model of governance chose to operate a revolving loan / mortgage program it is likely the fund would be administered jointly by the Council and the housing committee, where decisions regarding investment of funds and mortgage / loan payment calculations would probably be performed by the Council and the day-to-day administration of the fund (including daily fund management, applicant-screening, and so on) would fall to the housing authority.

Example: One successful example of a revolving mortgage fund can be found in the operations of Habitat for Humanity Affiliates, who are required to maintain a *Revolving Fund for Humanity* in order to provide long-term, interest-free mortgages to their member families. They are able to sustain this practice by carefully screening applicants to ensure they will in fact be able to make their mortgage payments, and by mortgaging all houses twice, in order to ensure that (1) families pay low mortgage rates, and (2) participating families don't directly profit in the short term from ownership of the house by selling-up early.

First Mortgage

The first mortgage is meant to pay for the costs of building the house, with the home's value being calculated as the actual combined costs of construction (including the value of donated materials and the cost of purchased materials, administration costs, and labour costs or value if donated) and site acquisition and development. Generally, mortgage terms are calculated to be approximately 25 years, and payments are calculated on a sort of mortgage-g geared-to-income basis, where families pay no more than 25%-30% of their gross monthly income toward mortgage payments, with adjustments being made to reflect increases or decreases in income.

Second Mortgage

The second mortgage is the one that is meant to ensure that homeowners don't take advantage of the generous terms of the first mortgage, which does not take into account the market value of the house. This mortgage is based upon the difference in value between the actual cost of the house (as represented by the first mortgage) and the fair market value of the house at the time of sale. This mortgage is forgiven either upon full payment of the first mortgage or at the end of the mortgage term, whichever is later. This means that if a homeowner pays off their first mortgage early and decides to sell their house in order to take advantage of a positive housing market, they are responsible for paying the second mortgage in full.

Loan Guarantees

First Nations wanting to assist community members in financing homeownership but unwilling or unable for whatever reason to administer a revolving loan fund may choose to act as guarantors for members with insufficient equity who are applying to receive loans / mortgages from external financial institutions. In these situations, "[t]he professionalism of the Housing Administration and strength of the First Nation's financial statements will be taken into account when negotiating with lenders. Loans guaranteed by the Band will be represented on the Band's Financial Statements as a Contingent Liability." [Federation of Saskatchewan Indian Nations, 2005 : 66] Essentially, the First Nation, in acting as guarantor, removes the necessity of community members having to rely on ministerial and CMHC loan guarantees via Section 10 in order to obtain financing to facilitate homeownership.

Rent-to-Own

Some First Nations communities in the United States administer rent-to-own programs on reserve, where certain homes are designated as rental properties with the option of full private ownership. In the rent-to-own program, Bands are responsible for funding and financing the construction of homes which are then rented to tenants with the understanding that the tenants may be eligible to purchase their homes once specific criteria have been met and satisfied. The length of time it will take the homebuyers to become homeowners is determined by the amount of time required by the homebuyer to pay the full calculated purchase price in calculated monthly occupancy payments. The two most common formulas for determining purchase price are (1) setting purchase price at seventy per cent (70%) of total construction cost, or (2) charging a set amount for all units based upon square footage. If neither of these two formulas is used and the Band

/ housing committee chooses to calculate purchase price based on some other method, the following factors should be kept in mind during calculations: operating costs, total construction and development costs, house size and type, and so on. Once a homebuyer has fulfilled all obligations outlined in the homebuyer agreement, the home will be eligible for conveyance (transfer of ownership). Obligations generally include: full payment of purchase price, payment of taxes and insurance coverage for the first year, payment of settlement and closing costs, and any other costs that the Band / housing committee deems appropriate. The Band / housing committee must adopt a policy to determine a point at which the balance owing on a home allows for issuing a notice of impending pay-off in full of the balance owing. Once the balance owing has been paid off and all legal steps taken, the title to the home is conveyed (transferred) from the Band / housing committee to the homebuyer. Counseling is made available to first-time homeowners as they make the transition from homebuyer to homeowner to ensure that they are well aware of their rights, duties, and obligations as homeowners.

SUBSIDIZED RENTAL HOUSING PROGRAMS

Perhaps the most common option for communities seeking to provide affordable housing to members, subsidized rental housing programs are an effective mechanism for alleviating the burdens shouldered by low-income individuals and families who would otherwise be forced to pay market rents, and are adaptable to suit the varying, and sometimes special, needs of people both on- and off- reserve. Examples of specialized subsidized housing programs presently operating across Canada include: Supportive Seniors' Housing Programs, Urban Youth at Risk Programs, Low-Income Urban Singles Programs, various Supportive Independent Living Programs for people with mental and / or physical disabilities, and so on. These programs can either be funded independently by the Band Council and administered by the Band Housing Authority, or the Band may choose to take advantage of subsidizing partnerships with public or private subsidizing agencies, thus limiting their financial responsibilities but maintaining a high level of independence in designing and administering programs. Subsidizing programs vary province-to-province and sometimes, as is the case in Ontario, municipality-to-municipality, and thus it is important for the Chief in Council to be aware of the local requirements and particularities associated with engaging in subsidizing partnerships. In subsidized rental housing (or rent-g geared-to-income) programs, tenants pay a maximum of 30% of their gross monthly income toward rent as their contribution toward the operating cost (or market rent, depending upon whether the program operates on a for-profit or not-for-profit basis) of their unit, with the remaining difference between operating cost and tenant rent contribution being paid via subsidy transfers.

MAINTENANCE

MAINTENANCE RESPONSIBILITIES

The housing committee and Chief in Council, as both property developers and property managers, are responsible for ensuring that all new construction projects meet health and safety standards from planning stages through to completion, and that housing developments, once operational, are maintained in keeping with these same standards.

The housing authority is responsible for ensuring that maintenance systems and procedures are in place that benefit, and ensure the proper functioning of, the development. This includes performing thorough inspections of buildings and sites at least once annually (with professional inspectors, when necessary) and recording all findings concerning work that needs to be done, any items that need to be replaced or repaired, and so on.

MAINTENANCE RECORDS

The housing authority will be responsible for maintaining detailed and up-to-date building and maintenance records for all developments, including records of: site inspections, including work that needs to be done, work that has been done, estimated or actual cost of work, and names and contact information for individuals or companies responsible for performing maintenance / construction work; copies of all contracts; building and equipment maintenance manuals, and guarantees and warranties for equipment, labour, and appliances; building specifications and architectural renditions, including as-built drawings; and detailed inventories of equipment, supplies, appliances, and tools. It is also recommended that the housing authority maintain detailed records for each unit in a development documenting inspections, work done as a result of inspection and any work done by request of a tenant, information concerning appliances, and so on.

NEW DEVELOPMENTS

When constructing a new housing development, the housing authority must work closely with contractors and architects at all stages of development to ensure that the interests of the committee are protected and that liability for any construction deficiencies is properly attached. The authority is responsible for ensuring that proper inspections of the development and development site take place regularly. It is the responsibility of the contractor to provide the committee with proper documentation concerning: maintenance and instruction manuals and warranties for products, operating systems, and materials; specifications and as-built drawings for buildings; copies of Building and Occupancy Permits; a contact list for contractors and sub-contractors responsible for any work; and so on.

PURCHASES AND SERVICE CONTRACTS

It is essential that Chief in Council and the housing committee cooperate to establish clear guidelines regarding purchasing and contracting in order to ensure that purchases and service contracts are undertaken with transparency and consistency, and that conflicts of interest are avoided. As previously discussed, it is helpful to clearly identify situations where Council approval for expenditures are necessitated and those where committee or authority approval is sufficient. Requirements regarding tendering work and contracting vary province to province, and it is the responsibility of the Councilor responsible for housing, as Chair of the housing committee, to ensure that policies regarding contracting and tendering work are in keeping with relevant legislation.

MANAGEMENT PERFORMANCE

OPERATIONAL REVIEW

In order to ensure that operating standards as identified in the housing committee's operating agreement are met, it is recommended that a thorough review of the operation and management of each development is performed once annually. Inspections / reviews should be performed by the Councilor for housing in the company of the Chief in Council and trained professionals (financial auditors, safety inspectors, and so on). The operation and management of the committee, authority, and developments should be judged and evaluated based on the following categories:

- (i) Maintenance Management;
- (ii) Resident Management;
- (iii) Information and Records Management;
- (iv) Human Resources Management; and
- (v) Financial Management.

In order to foster transparency, it is recommended that the findings of these evaluations and the committee, authority, and Council's responses to the findings be made available to the community and to development residents.