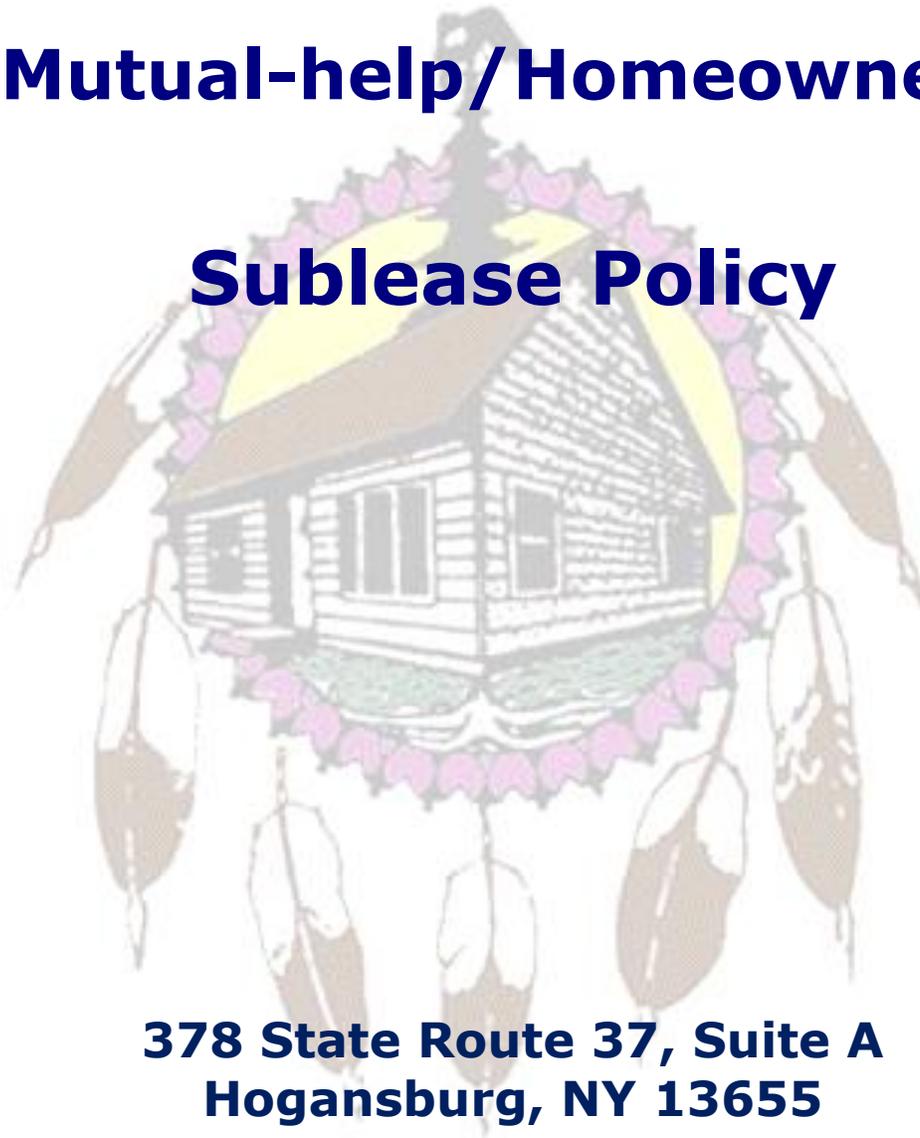


# **AHA Mutual-help/ Homeownership**

## **Sublease Policy**



**378 State Route 37, Suite A  
Hogansburg, NY 13655**

**Effective June 16, 2011**



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## SECTION I: PURPOSE

The purpose of this policy is to inform homebuyers participating in the Akwasasne Housing Authority (AHA) Mutual Help Homeownership Program of established guidelines for subleasing the units they currently reside in. These procedures are intended to be in concert with other applicable AHA program policies and agreements.

## SECTION II: DEFINITIONS

Collections Policy of the AHA: Established guidelines for the collection of rent, house payments and other charges.

MEPA: Homebuyer's monthly equity payment account in the Mutual-Help homeownership program credited with the amounts by which monthly payments exceed the administration charge.

Equity Use Policy of the AHA: Established guidelines for the use of accumulated equity for home improvement activities.

Homebuyer: The person(s) who has executed the Mutual Help and Occupancy Agreement for a home and who has not yet achieved homeownership.

MHOA: The Mutual-help and Occupancy Agreement between the Akwasasne Housing Authority and the homebuyer. The MHOA constitutes a lease-option agreement. The homebuyer is the lessee during the term of the agreement and acquires no equitable interest in the home until the option to purchase is exercised.

Mutual-help Program: The Mutual-help Homeownership Program.

Purchase Price Schedule: The homebuyer's statement of the initial purchase price of the unit with a schedule showing the monthly amortization of that price over a 25 year period.

Sublease Agreement: A contract which conveys some or all of the property rights and obligations that a lessee has under a residential lease to a third party for a portion of the lessee's remaining term of the original lease.

Sublessee: One to whom a property is subleased.

VEPA: Homebuyers' account in the Mutual-help homeownership program credited with the amount of any occasional voluntary payments in excess of the required monthly payments.

### **SECTION III: CONDITIONS**

#### **A. Rentals Low Income Rentals – Elderly and Family**

- I. Tenants in the AHA Rental programs are prohibited from assigning, subletting, or transferring possession of the premises to any other individuals;
- II. Tenants found doing so are subject to termination of their Rental Lease Agreement and Eviction.

#### **B. Homeownership Mutual-help Units**

Homebuyers in the Mutual-help program may sublease their Mutual-help home under certain circumstances, requirements and restrictions and in accordance with Article IV, Section 4.4(2) of the MHOA.

- I. Circumstances Considered:
  - a. Higher education pursuits; the homebuyer who wants to attend a recognized educational institution, such as college (undergraduate/graduate), community college skill centers, private business schools, or vocational institutions, for the purpose of obtaining a degree or certification;
  - b. Employment advancements; some homebuyers are dependent upon seasonal employment and are forced to find jobs which are not always attainable in the community;
  - c. Temporary medical care; approval from the AHA will be dependent upon a doctor's written recommendation that the homebuyer needs to leave the area for medical reasons such as hospitalization and/or therapy in a situation that is not permanent;

- d. Military service; temporary duty assignment with a copy of the orders being placed in the homebuyer's file.

The AHA shall examine relocating versus reasonable commuting time when approving a sublease. Hardship factors to be considered include the quality of roads, customarily available transportation and usual or customary travel times. The commuting distance shall be measured from the homebuyer's home.

II. Requirements and Restrictions:

- a. The term of the sublease shall not exceed one year;
- b. The AHA will not consider or approve requests for subleases if the subject homebuyer is in arrears. A sublease will be allowed only if all accounts are brought current;
- c. The AHA will not consider or approve equity requests while in a sublet agreement. Section III(2) of the AHA Equity Use Policy states that persons who have entered into a sublease agreement shall not be eligible to apply for equity withdrawals. This requirement shall apply to both the sublessee and homebuyer of record;
- d. The sublessee, in signing a sublease agreement, becomes responsible to all duties and obligations in the homebuyer's MHOA;
- e. The person or persons subleasing the home acknowledge that they must be found to be eligible by the AHA as a participant;
- f. To determine the rent according to the procedures adopted by the AHA, the sublessee shall furnish to the AHA such evidence as to gross family income and family composition;
- g. Notices to sublessee shall be in writing and delivered to sublessee or to an adult member of the sublessee's family residing in the dwelling or sent prepaid first class mail properly addressed to sublessee.

## SECTION IV: REQUEST FOR SUBLEASE

- A. The homebuyer agrees to submit a proposed sublease agreement for review and approval at least 30 days prior to the subleasing tenant's move in date;

- B. The 30-day notice shall allow the AHA to review and approve the request with all requirements and to assure that the sublease has a language that gives the AHA the right to step in and void the sublease if program violations occur;
- C. The sublease agreement will be subject to annual renewal. Lease extensions beyond the prescribed one year period may be considered. Approval will be handled on a case-by-case basis and at the discretion of the AHA Board of Commissioners.

## **SECTION V: SUBLEASE AGREEMENT**

The pre-approved Sublease Agreement (Attachment A) must be in compliance with the AHA rules, regulations and guidelines. It does not release the homebuyer or the sublessee from any occupancy responsibilities, including making monthly payments, keeping the unit in good repair and living responsibly within the tribal community.

The sublease/general conditions shall include the following items so that all parties involved are protected:

- A. The sublease agreement will be a three-party agreement, (1) Akwesasne Housing Authority, (2) homebuyer, and (3) sublessee;
- B. The term of the sublease shall be clearly stated;
- C. A statement that the homebuyer agrees that he or she shall remain bound to the AHA for all obligations in the MHOA and further assumes the obligation to remain liable to the AHA for the performance on the part of the sublessee of all covenants of the sublease;
- D. The sublessee's monthly rent, due date, and remittance instructions;
- E. The description of the leased premises shall be identified on the sublease;
- F. A statement that either party hereto may terminate this lease at the expiration of any term by giving to the other parties, or in the case of AHA, to both homebuyer and sublessee, written notice of the intention to do so not less than thirty (30) days before expiration of the term. Upon termination from either notice or cause, sublessee agrees to surrender the premises in as good condition as it was upon move-in;
- G. A statement that the sublessee is responsible for complying with all other responsibilities/obligations stated in the MHOA.

## **SECTION VI: SELECTION OF THE SUBLESSEE**

All homebuyer's sublessees are required to be eligible for AHA services and must provide the same source documentation as required under the AHA Admissions Policy.

- A. In the event that the homebuyer does not have a prospective sublessee, names from the AHA waiting list will be provided at the request of the Homebuyer;
- B. Ineligible sublessees include leasing to private and public corporations as well as either profit or non-profit organizations.

## **SECTION VII: TERMINATION OF A SUBLEASE**

In the event the homebuyer fails to terminate a sublease due to the default of any of the conditions, which are the homebuyer's obligations, the homebuyer will be considered by the AHA to be in default of his/her MHOA. The AHA shall give him/her a Notice of Termination of that agreement pursuant to the terms of that agreement. The homebuyer will be held liable to the AHA to pay for all costs arising out of such default, including but not limited to: legal fees, maintenance repairs and any outstanding account and/or repair balances.

## **SECTION VIII: DENIED SUBLET REQUESTS AND EXTENSIONS**

To avoid termination of their MHOA with the AHA, a homebuyer who is denied a sublet request and/or a sublet extension shall be given thirty (30) days to consider the following possible options:

- A. Make their unit as their principal residence again;
- B. Relinquish all the interest they have in the unit and walk away from the home and program;
- C. Exercise the option to purchase the unit outright. If a homebuyer chooses this option, the AHA Board of Commissioners will be willing to forgive ten (10) percent of the balance owing;

D. Enter into a special payback agreement (Attachment B) which will be designed to eliminate the subsidy portion of the monthly principal reduction. By choosing this option the homebuyer will pay back 100% of the balance owing on the unit and lengthen their term in the program. In order for the AHA Board of Commissioners to consider this option, the homebuyer must:

- I. Have been in the Homeownership Program at least ten (10) years or have paid down at a minimum forty (40) percent of the original purchase price of the unit;
- II. Have income that is at a level, and is likely to continue at such level, at which thirty (30) percent of the monthly adjusted income is at least equal to the sum of the principal reduction shown on the homebuyer's purchase price schedule;
- III. Clearly demonstrate that their present life situation does not make it feasible for them to live in the unit;
- IV. Provide documentation that they are financially unable to obtain other financing to buy the unit out of the program;
- V. Understand that this special payback agreement is "irreversible", meaning that the homebuyer must abide by the terms of the Payback Agreement and may not revert to the previous MHOA payment arrangement.

## ATTACHMENT A – SUBLEASE AGREEMENT

The undersigned,  
**AKWESASNE HOUSING AUTHORITY**, hereinafter the owner,

And

\_\_\_\_\_, hereinafter the homebuyer,

And

\_\_\_\_\_, hereinafter the sublessee,

Agree to the following:

### **The Sublet Accommodation**

The homebuyer subleases out to the sublessee, who accepts the sublease of Unit \_\_\_\_\_ situated on \_\_\_\_\_, hereinafter the unit. The unit is meant exclusively for use as a living accommodation by the sublessee, his or her spouse, and any possible children. The sublessee declares that he will reside in the unit for the duration of the sublease.

The agreement will be entered upon for the duration of \_\_\_\_\_ months, starting \_\_\_\_\_ and ending \_\_\_\_\_. After termination of the sublease period, the sublessee declares that he will vacate the unit on the date stated and return disposal of the unit to the homebuyer.

### **The Rent**

The rent owed by the sublessee to the owner will be \$\_\_\_\_\_, in words

\_\_\_\_\_.

The sublessee must pay this amount to the owner on or before the first day of each month at the Akwesasne Housing Authority administration offices (in person or by drop box) located at 378 State Route 37, Suite A, Hogansburg, New York 13655 or sent by mail to the same address.

### **General Terms and Conditions**

The general terms and conditions for the sublease of Unit \_\_\_\_\_ are applicable to this agreement. The sublessee declares that he has received these terms and conditions when signing this agreement and to concur with them. The sublessee also declares that he has made no arrangements with the homebuyer, apart from those mentioned in this agreement.

Drawn up in triplicate and signed in Akwesasne, New York on \_\_\_\_\_.

Date

\_\_\_\_\_  
Akwesasne Housing Authority

\_\_\_\_\_  
Homebuyer

\_\_\_\_\_  
Lessee

**General Terms and Conditions for the Sublease of Unit \_\_\_\_\_.****1. Payment obligations of the Sublessee**

- 1.1 The sublessee must pay the amount due in full on the first day of the month, as stated in the sublease agreement. The above date is a statutory limit. Payment obligations will be in accordance with the AHA Collections Policy which is made a relevant part of the General Terms and Conditions.

**2. Use of the Unit**

- 2.1 The homebuyer agrees that he or she shall remain bound to the owner for all obligations in the homebuyer's Mutual Help and Occupancy Agreement (MHOA) and further assumes the obligation to remain liable to the AHA for the performance on the part of the sublessee of all covenants of the sublease;
- 2.2. All parties hereto may terminate this sublease at the expiration of any term by giving to the other parties, or in the case of the owner, to both homebuyer and sublessee, written notice of the intention to do so not less than thirty (30) days before expiration of the term. Upon termination from either notice or cause, the sublessee agrees to surrender the premises for the homebuyer in as good condition as it was upon move-in;
- 2.3 The sublessee, during the term of the sublease, is responsible for complying with all other responsibilities/obligations stated in the homebuyer's MHOA which is made a relevant part of the general terms and conditions. More specifically:

Article IV

- Section 4.1 Inspections and Warranties, Subsections (c),(d) and (e)  
Section 4.2 Maintenance, Subsections (a), (b) and (c)  
Section 4.3 Responsibility for Utilities  
Section 4.4. Obligations with Respect to Home and Other Persons and Property, Subsection (a) and (c)

Article V

- Section 5.1 Establishment of Schedule, Subsections (a),(b),(c) and (d)  
Section 5.2 Administrative Charge  
Section 5.3 Adjustments in the Amount of the Required Monthly Payment, Subsections (a) and (b)

**ATTACHMENT B – MHOA RIDER**

**AKWESASNE HOUSING AUTHORITY**  
**MUTUAL-HELP AND OCCUPANCY**  
**AGREEMENT RIDER**



**ATTACHMENT C – SAMPLE LOAN AGREEMENT**

(Date)

Homebuyer Name

Address

City, State, Zip Code

**OBJECT:        *MUTUAL HELP AND OCCUPANCY AGREEMENT*  
                  *SPECIAL PAYBACK AGREEMENT/INSTALLMENT PAYMENT***

***ARRANGEMENT***

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Dear Ms. XXXXXXXX,

This is to confirm the arrangement under which we will accept payment of your outstanding balance of (AMOUNT) in installments. You must sign and return the enclosed copy of this letter indicating admission of the full amount of the account and acceptance of the terms of our agreement.

We will, then, accept payment of the account in consecutive monthly installments of (AMOUNT) commencing (DATE) and continuing on the 1st of each successive month until paid off in full. Each payment will be applied to the principal balance.

If there is default in making any payment, at our option, the full balance owing on the account shall immediately become due.

Please return the signed copy of the agreement with your first payment before the commencement date of the monthly installments otherwise this agreement is null and void.

Sincerely

Retha M. Herne  
Executive Director

**ADMISSION AND ACCEPTANCE**

The undersigned hereby admits the full amount of the above outstanding account, and accepts the above terms of payment.

Dated: (DATE)

By: \_\_\_\_\_

**ATTACHMENT D – SUBLET PROCESS**

