

FIRST NATION OF NACHO NYAK DUN

**RESOLUTION NO. 08-2006 OF THE GENERAL ASSEMBLY
Passed on June 16, 2006**

*Being the consolidation and updating of Policies No. 6-150, 6-151, 6-152 and 6-153,
all as amended from time to time*

WHEREAS:

- A. The General Assembly of the First Nation of Nacho Nyak Dun (the “General Assembly”), under the authority of the Constitution of the First Nation of Nacho Nyak Dun, previously passed Policies No. 6-150, 6-151, 6-152 and 6-153, and amendments to these Policies (the “Former Policies”);
- B. The Assisted Home Ownership Program (“AHOP”) operated under the Former Policies from 1997 to 2004;
- C. The General Assembly determined that irregularities in the operation of AHOP required attention and therefore in June 2004 suspended the operation of AHOP and directed Council of the First Nation of Nacho Nyak Dun (the “Council”) to address the irregularities;
- D. The Council has reviewed AHOP and, among other things, recommends that:
 - i. the Former Policies be consolidated and updated; and
 - ii. the policies and administration of AHOP in future be managed by the Council with annual reports to the General Assembly; and
- E. The General Assembly continues to support the policy objective of assisting needy Citizens to own their own homes as a way of promoting Citizen wealth and independence and diminishing future obligations of the First Nation of Nacho Nyak Dun to provide for Citizen housing needs.

NOW THEREFORE this General Assembly hereby resolves to replace the Former Policies with this consolidated and updated Policy No. AHOP-06-001, as follows:

ASSISTED HOME OWNERSHIP PROGRAM
Policy No. AHOP-06-001
Passed by the General Assembly on June 16, 2006

Short Title

1. This policy may be cited as the *FNNND AHOP Policy No. AHOP-06-001*.

Application

2. This policy applies to all Citizens who are eligible to apply for AHOP assistance.

Deemed agreement

3. For greater certainty, every Citizen who has received AHOP assistance is:
 - a. deemed to have agreed to be bound by this policy; and
 - b. not relieved of any obligations he had under the Former Policies or the agreements he made under the Former Policies.

Purpose

4. The purpose of this policy is to assist Citizens to become homeowners and lessen the burden on the First Nation of Nacho Nyak Dun of providing for housing needs.

Interpretation

5. Unless otherwise defined in this policy, capitalized words have the meanings found in the First Nation of Nacho Nyak Dun Constitution.
6. In this policy, references to the male gender include the female gender and vice versa, and the singular form includes the plural form and vice versa.

Authority of Council

7. Council has full authority for this policy, including the authority to review, revise, implement, administer and suspend this policy.
8. Council may terminate this policy in consultation with the General Assembly.
9. Council may delegate its authority under this policy to whom and to the degree Council, in its sole discretion, deems useful or necessary.
10. Council shall report at least annually to the General Assembly on this policy for as long as this policy is in effect.
11. Council may, from time to time by Council motion, authorize decisions, acts, rules, policies or procedures for:

- a. the assessment of applicant suitability for receipt of AHOP assistance;
- b. terms of reference for any body or person to whom Council has delegated responsibilities under this policy or for its administration;
- c. the development and implementation of policies or procedures for administration of this policy; and
- d. any other matter related to the administration of this policy.

AHOP Administrator

12. Council shall appoint an AHOP Administrator, in accordance with the hiring policies of the First Nation of Nacho Nyak Dun.
13. The AHOP Administrator shall report to the Housing Director and is responsible for the administration of this policy and of AHOP generally.
14. The AHOP Administrator shall have duties that include the following:
 - a. providing Citizens with information and assistance concerning this policy;
 - b. maintaining a secured and confidential central registry of successful AHOP applicants, and of applicants who are pending or have been rejected;
 - c. developing, organizing, managing and maintaining all records, documents, correspondence, forms, up-to-date copies of policies and other resources required to administer this policy and any other policies related to AHOP;
 - d. maintaining and updating administrative procedures, including those that are used to assess the suitability or eligibility of AHOP applicants;
 - e. reporting on the administration of AHOP regularly or as required by the Housing Director;
 - f. providing at the Housing Director's instruction such information, recommendations, and support as Council may require to enable Council to exercise its authority for AHOP under this policy; and
 - g. such duties as authorized by the Housing Director for the better administration of this policy.

Application for AHOP assistance

15. Any eligible Citizen may receive, once only during his lifetime, AHOP assistance in the form of a subsidy of up to \$50,000 (the "AHOP Loan"), by submitting an application in the form provided by the AHOP Administrator.

Eligible AHOP applicant

16. A Citizen is eligible for receipt of AHOP assistance only if:
 - a. the home he occupies or intends to occupy is located within the geographic boundaries of the Yukon Territory or such other geographic area as Council may from time to time determine;
 - b. his application for housing made under the housing policy or policies of the First Nation of Nacho Nyak Dun has been approved and selected in accordance with those policies;
 - c. the use for which AHOP assistance is applied for is permitted under this policy; and
 - d. he meets all other requirements for eligibility as may be set from time to time by the AHOP Administrator.

Effect of receipt of AHOP assistance

17. A Citizen who receives AHOP assistance will not be entitled to receive any further housing assistance from the First Nation of Nacho Nyak Dun and shall forever release the First Nation of Nacho Nyak Dun from any obligation, whether present, future or past, to provide him with housing assistance.
18. Without limiting the generality of section 17, the First Nation of Nacho Nyak Dun may at any time, by a duly passed decision of the General Assembly, pass a policy or policies that supplement or complement this policy.

Eligible uses for AHOP assistance

19. An AHOP Loan must be used solely and for no other use than to:
 - a. purchase a home that is not a mobile home;
 - b. build a home; or
 - c. discharge or pay down an existing mortgage on a home.
20. Without limiting the generality of section 19, an AHOP Loan may not be used for any of the following:
 - a. renovations;
 - b. legal costs;
 - c. insurance;
 - d. taxes; or

e. maintenance,

all of which shall be the at sole cost of the Citizen.

Fundamental condition of AHOP assistance

21. It is a fundamental condition that every Citizen who has received AHOP assistance must occupy and maintain as his primary residence the home to which the AHOP assistance was applied, for the full term of the AHOP Loan or until the AHOP Loan is repaid or forgiven.

AHOP Loan forgivable

22. If a Citizen who has received AHOP assistance continues to meet his obligations under this policy and is not in breach of any related agreement or written instrument, the First Nation of Nacho Nyak Dun shall forgive one-tenth of the amount of the AHOP Loan on each anniversary date of the grant of the AHOP Loan until the entire amount of the AHOP Loan has been forgiven.

Further conditions

23. Every Citizen who has received AHOP assistance agrees to the following further conditions:
- a. the AHOP Loan received remains a debt due and payable in full to the First Nation of Nacho Nyak Dun until such time as it has been forgiven or repaid;
 - b. the Citizen shall give good and marketable security in the form of a mortgage of the home to which AHOP assistance was applied, which mortgage shall be no lower than second in priority against title;
 - c. in the case of a discharge or pay down of an existing mortgage, the Citizen shall provide proof of such discharge or pay down in the full amount of the AHOP Loan;
 - d. in the case where the AHOP Loan is being used to pay for construction of a home, these funds shall be held by the AHOP Administrator in an account for that purpose and the AHOP Administrator shall reimburse the Citizen for reasonable, pre-approved construction costs, up to the total value of the AHOP Loan;
 - e. the Citizen shall allow inspections by the First Nation of Nacho Nyak Dun of the home to which AHOP assistance was applied, on reasonable notice; and

- f. when the total indebtedness for the AHOP assistance has been forgiven, the First Nation of Nacho Nyak Dun shall, at the sole cost of the Citizen, register a discharge of its mortgage.

No assignment of AHOP assistance

24. A Citizen who has been approved for AHOP assistance shall not assign nor purport to assign that AHOP assistance, an AHOP Loan, or any portion of it, to another Citizen.

Priority of First Nation of Nacho Nyak Dun mortgage

25. A mortgage granted to the First Nation of Nacho Nyak Dun shall rank no lower than second on title.
26. The First Nation of Nacho Nyak Dun may, in its sole discretion, and no more than twice during the term of the mortgage, agree to the postponement of its mortgage, as long as the mortgage remains no lower than second on title, and the Citizen is responsible for all costs of the postponement.

If AHOP recipient wishes to relocate

27. If a Citizen who has received AHOP assistance wishes to relocate to another home and, provided he is not in breach of this policy or any other written agreement which applies to the grant of the AHOP Loan, he shall notify the AHOP Administrator in writing in advance and the provisions in section 28 shall apply.
28. Any relocation by a Citizen who has received AHOP assistance shall:
 - a. be subject to the same conditions which applied when the AHOP Loan was first granted and received;
 - b. require the grant of a good and marketable security interest in the form of a mortgage of the new home, securing the unforgiven amount of the AHOP Loan, for the remainder of the term of the first mortgage;
 - c. be at the sole cost of the Citizen,and the obligations of the Citizen under the original grant of AHOP assistance shall continue without interruption or change.
29. If a Citizen sells a home to which AHOP assistance was applied but does not meet the conditions in sections 27 and 28:
 - a. the unforgiven amount of the AHOP loan is a debt immediately due and payable to the First Nation of Nacho Nyak Dun; and

- b. the forfeiture of any right to apply for further housing assistance from the First Nation of Nacho Nyak Dun continues to apply unless he has repaid the full amount of the AHOP Loan as originally granted.

In case of separation or divorce

30. If a Citizen has in his own name received AHOP assistance and subsequently either marries or co-habits, or separates or divorces from another Citizen, and the two of them reside or resided in the home to which the AHOP assistance was applied, the Citizen in whose name the AHOP Loan was received shall be the party forever disentitled from receiving any future housing assistance from the First Nation of Nacho Nyak Dun.
31. Where two married or co-habiting Citizens jointly applied for AHOP assistance, it is open to either one of them to subsequently apply in his own name for other AHOP assistance but only if the co-applicant agrees in writing to assume all the benefits and responsibilities of being a sole applicant.
32. Nothing in this policy prevents the application of the law of the Yukon Territory respecting the division of family assets on a separation or divorce and the separating or divorcing Citizens shall be jointly responsible for the allocation of the benefits and responsibilities, as between the two of them, of any AHOP assistance received.

In case of death

33. Subject to section 34, where a Citizen who has received AHOP assistance dies ("Deceased") before the AHOP Loan has been fully forgiven, the remaining amount of the AHOP Loan is repayable in full to the First Nation of Nacho Nyak Dun.
34. Where the home of the Deceased is bequeathed or devolves on an intestacy to a Citizen, that Citizen shall either repay the amount of the AHOP Loan still owing or forever relinquish the right to future housing assistance from the First Nation of Nacho Nyak Dun.

Default

35. If a Citizen is in breach of this policy or any other written instrument which applies to the grant of the AHOP Loan, the Council on behalf of the First Nation of Nacho Nyak Dun may in its sole discretion exercise any and all remedies available to it in law and equity and may seek to recover from the Citizen all reasonable costs incurred by the First Nation of Nacho Nyak Dun.
36. Without limiting the generality of section 35, failure to meet the fundamental condition in section 21 entitles the First Nation of Nacho Nyak Dun to withhold the annual forgiveness of one-tenth of the AHOP Loan, demand the repayment of the balance of the AHOP Loan, or seek or take such other remedies available to it under law or equity.

37. Where a Citizen is in default and a claim, proceedings or other action has been taken against him by the First Nation of Nacho Nyak Dun, any settlement of such claim, proceedings or action must be approved by Council.

Appeal of decision

38. Until such time as the First Nation of Nacho Nyak Dun has established an adjudicatory body and process, a decision of the Housing Administrator may be appealed in writing, within 30 days of the decision being communicated to the intended recipient to Council, and the decision of Council is final.

Policy prevails in event of conflict

39. If any provision in an agreement made pursuant to this policy conflicts with a provision of this policy, the provision in the policy shall prevail to the extent of the conflict.
40. If any provision in this policy conflicts with the Former Policies, this policy shall prevail to the extent of the conflict.

Amendments to this policy

41. If Council proposes amendments to this policy at any time, it shall notify the Citizens of such proposed amendment within 90 days of its decision or at the next General meeting of the Citizens or General Assembly, whichever is first. The proposed amendment shall only be effective upon approval by the Citizens at a General meeting or General Assembly.

Effective Date

42. This policy is effective on the date of the resolution of the General Assembly, shown above, or on such other date as the General Assembly may decide.