

TOQUAHT NATION GOVERNMENT

HOUSING AUTHORITY ACT

TNS 1/2013



OFFICIAL CONSOLIDATION – CURRENT TO SEPTEMBER 16, 2015

This is a certified true copy of the consolidated Housing Authority Act TNS 1/2013, Current to September 16, 2015

Date: January 11, 2016

Kristen Johnson

Signed:

Law Clerk

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OFFICIAL CONSOLIDAITON – SEPTEMBER 16, 2015

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PREAMBLE

Since time immemorial the Toquaht have nurtured and supported each other in both individual and community development. Housing plays a vital role in building livable, vibrant and lasting communities and a strong economy. Adequate, safe and affordable housing is the basic foundation which individuals and families need in order to build stable and productive lives. All Toquaht citizens have an interest in housing and all Toquaht citizens should, to the extent reasonably possible, have access to adequate, safe and affordable housing.

The Toquaht Nation adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Housing Authority Act.

Executive oversight

1.2 The member of the Executive holding the lands, public works and environmental protection portfolio is responsible for the executive oversight of this Act.

Application

- 1.3 (a) This Act is enacted under sections 13.11.1, 13.12.1, 13.12.2 and 13.14.1 of Chapter 13 Governance of the Maa-nulth Treaty and under sections 3.2(d) and 3.2(f) of the Constitution.
- (b) This Act applies to
- (i) the housing authority,
 - (ii) the financing and construction of new Toquaht housing, and
 - (iii) the use and occupation of Toquaht housing.
- (c) Despite sections 1.3(b) and 1.5 of the Financial Administration Act,
- (i) this Act governs the management and control of the finances of the housing authority, and
 - (ii) the Financial Administration Act has no application to the housing authority.

Interpretation

- 1.4 (a) In this Act, words or expressions defined in the Land Act that are also used in this Act will, except where the context requires otherwise or is otherwise indicated, have the same meaning as those words or expressions defined in the Land Act, with necessary changes in the details.
- (b) In this Act,
- “allocation application” means an application for allocation of Toquaht social housing under section 8.2;
- “annual plan” means the plan approved by the Executive under section 4.1;
- “auditor” has the meaning given to that term in the Financial Administration Act;

“board” means the board of directors of the housing authority;

“constating documents” means, in respect of the housing authority, its certificate of incorporation, Notice of Articles and Articles, as amended from time to time in accordance with their terms;

“dependent” means

- (i) an individual who depends primarily on an applicant or tenant, or a spouse of the applicant or tenant if that spouse is ordinarily resident in the same household as the applicant or tenant, for the necessities of life, including food, shelter and clothing, and that individual is ordinarily resident in the same household as the applicant or tenant, and
- (ii) the spouse of an applicant or tenant if that spouse is ordinarily resident in the same household as the applicant or tenant;

“eligibility application” means an application under section 7.2 for an assessment of eligibility to rent Toquaht social housing;

“eligible individual” means an individual whose name appears on the housing list;

“good financial standing” means not owing any money or maintaining current repayment of any money owed when due and payable;

“housing authority” means the Toquaht Housing Authority Corporation;

“housing office” and “housing officer” mean the office established under section 3.12 or the individual appointed to hold that office;

“housing subsidy” means a capital housing grant, a loan or a loan guarantee granted by the housing authority;

“housing list” means the list of eligible individuals under section 7.5;

“mandate” means the duties and powers of the housing authority set out in section 2.2;

“non-citizen stakeholder” means an individual who has reached the age of majority, is not a Toquaht citizen and who could be directly and significantly affected by decisions of the board relating to Toquaht market housing;

“tenancy agreement” means an agreement under section 8.7 between an eligible individual and the housing authority for the rental of Toquaht housing;

“tenant” means an individual who is renting Toquaht housing under a tenancy agreement;

“Toquaht housing” means a unit of housing which is managed, maintained or owned by the housing authority, including housing transferred to the housing authority in accordance with section 5.3, and any land immediately adjacent to that housing and indicated in the applicable tenancy agreement to form part of that Toquaht housing for purposes of that tenancy agreement;

“Toquaht Housing Authority Corporation” means the Toquaht Housing Corporations incorporated under the Business Corporations Act (British Columbia) on September 14, 2012 under incorporation number BC0950250;

“Toquaht market housing” means a unit of Toquaht housing rented by the housing authority to an individual in accordance with Part 9;

“Toquaht social housing” means a unit of Toquaht housing allocated and rented to an eligible individual by the housing authority in accordance with Parts 7 and 8.

PART 2 - PUBLIC INSTITUTION AND MANDATE

Public institution

- 2.1 The housing authority is established as a Toquaht public institution under 13.11.1a of Chapter 13 Governance of the Maa-nulth Treaty and section 2.20 of the Constitution.

Mandate

- 2.2 (a) The mandate of the housing authority is to
- (i) acquire interests in land for Toquaht housing,
 - (ii) finance and construct new Toquaht housing,
 - (iii) allocate Toquaht social housing to eligible individuals,
 - (iv) manage and maintain Toquaht housing,
 - (v) administer and allocate housing subsidies, and
 - (vi) rent Toquaht market housing to individuals who qualify.
- (b) The housing authority must perform the duties and may exercise the powers reasonably necessary for it to fulfill its mandate, subject to this Act and all applicable laws.

Restriction on activity

- 2.3 The housing authority may only engage in activities that
- (a) reasonably fall within its mandate or that are necessarily ancillary or incidental to that mandate,
 - (b) require the utilization of the housing authority's financial resources in a manner that is substantially in accordance with the current annual plan; and
 - (c) are substantially in compliance with all applicable laws.

Designation of market and social housing

- 2.4 (a) Subject to subsection (b), the housing authority must, by resolution and from time to time, designate and maintain a list of each unit of Toquaht housing as either Toquaht social housing or Toquaht market housing.
- (b) Subject to section 8.8, the housing authority must ensure that at least the prescribed percentage of Toquaht housing is Toquaht social housing.

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PART 3 - ADMINISTRATION

Composition of board

- 3.1 (a) The Executive must, by resolution, vote the Toquaht Nation shares in the housing authority so that the board is comprised of three individuals,
- (i) one of whom must be a non-citizen stakeholder, and
 - (ii) all of whom bring particular expertise or other considerations to the board which relate to the mandate of the housing authority
- provided each individual appointed under this section has signed a consent to be appointed to the board.
- (b) The Executive must consult with non-citizen stakeholders regarding the appointment of the non-citizen stakeholder under subsection (a).
- (c) The Executive must, by resolution, vote the Toquaht Nation shares in the housing authority so that the term of office for each member of the board is not less than one year and not more than three years or until he or she resigns or is removed in accordance with this Act and the constating documents.
- (d) Despite subsections (a) to (c), if there are no non-citizen stakeholders or there is not a non-citizen stakeholder who consents to become a director of the housing authority at the time of the appointment, the Executive must, by resolution, vote the Toquaht Nation shares in the housing authority so that the board is comprised of three individuals,
- (i) two of whom hold office for a term of not less than one year and not more than three years or until they resign or are removed in accordance with this Act and the constating documents,
 - (ii) one of whom holds office for a term of not less than one year and not more than three years, until he or she resigns or is removed in accordance with this Act or until a non-citizen stakeholder delivers notice in writing to the Tyee Ha'wilth that he or she wishes to become a director of the housing authority and has signed a consent to being appointed to the board, whichever is earlier, and
 - (iii) all of whom bring particular expertise or other considerations to the board which relate to the mandate of the housing authority.
- (e) For certainty, a member of the board may be appointed to consecutive terms of office.

Removal of a member of the board

- 3.2** (a) The Executive may, by resolution, only vote the Toquaht Nation shares in the housing authority to remove a member of the board in one or more of the following circumstances:
- (i) the member of the board is persistently absent from meetings of the board;
 - (ii) the member of the board engages in conduct which amounts to impropriety or malfeasance;
 - (iii) the member of the board exerts undue influence over other members;
 - (iv) the member of the board is grossly incompetent;
 - (v) the board or member of the board is not acting in accordance with the law or the mandate of the housing authority;
 - (vi) the member of the board holds office under section 3.1(d)(ii) and is to be replaced with a non-citizen stakeholder under section 3.1(a)(i); or
 - (vii) the board or member of the board is not acting in the best interests of the housing authority.
- (b) An individual who has been removed from the board by the Executive may request a review of that decision under the Administrative Decisions Review Act.

Casual vacancy

- 3.3** Despite section 3.1, if a member of the board ceases to hold office during his or her term for any reason other than removal under section 3.2 and the Executive has not within 30 days of the vacancy appointed an individual to hold that office in accordance with section 3.1, the board may by resolution appoint an individual as a replacement member of the board to complete the balance of the term of office of the individual he or she is replacing.

Meetings of the board

- 3.4** The board must meet at regular intervals and at least annually.

Procedure

- 3.5** Subject to this Act and the constating documents, the housing authority may establish its own rules of order and procedure.

Chair

- 3.6** At the first meeting of the board in each fiscal year, the board must select a chair of the board from among its members.

Duties of the board

- 3.7** (a) The board must oversee the operations of the housing authority and must perform the duties and may exercise the powers of the housing authority set out in this Act.
- (b) The board must perform the duties and may exercise the powers of the board set out in the constating documents and applicable law, subject to this Act.

Major decisions requiring Executive approval

- 3.8** Despite anything to the contrary in the constating documents, the housing authority will not take any action in respect of or within the scope of any of the following decisions without the prior approval of the Executive by resolution:
- (a) making any changes to the constating documents;
 - (b) renaming the housing authority;
 - (c) making any change in the authorized or issued capital of the housing authority;
 - (d) issuing any shares in the capital of the housing authority or granting any right, option or other commitment for the issuance of such shares;
 - (e) redeeming any shares in the capital of the housing authority;
 - (f) entering into a partnership, joint venture or other similar relationship with a third party;
 - (g) selling, transferring or otherwise disposing of all or any substantial part of the undertaking, property or assets of the housing authority;
 - (h) waiving any right of substantial value;
 - (i) awarding, entering into, amending, terminating or waiving compliance with the terms of any contracts which
 - (i) are not at a fixed or predetermined price, or
 - (ii) commit the housing authority to amounts exceeding \$500,000 for any one contract;
 - (j) acquiring real property for any amount which exceeds \$500,000;

- (k) acquiring personal property for an amount exceeding \$10,000 for any one item;
- (l) borrowing money or establishing a line of credit in an amount exceeding \$100,000 for any one loan or line of credit;
- (m) obtaining more than one loan or line of credit within a 120 day period where the aggregate amount of such loans or lines of credit exceeds \$100,000;
- (n) guaranteeing any loans except in accordance with Part 12;
- (o) investing funds not immediately required for the operation of the housing authority in any instrument other than securities issued or guaranteed by Canada or a province or territory of Canada or fixed deposits, notes, certificates or other short-term paper of, or guaranteed by, a financial institution;
- (p) settling any claim of or against the housing authority where the amount claimed is greater than \$50,000;
- (q) entering into any material contract or commitment or engaging in any material transaction not in the ordinary and usual course of fulfilling its mandate;
- (r) declaring a dividend on participating shares;
- (s) consolidating, amalgamating or merging the housing authority with or into any other entity;
- (t) commencing any proceedings to wind up, dissolve or liquidate the housing authority;
- (u) making any assignment for the benefit of the creditors of the housing authority or any application for a receiving order against the housing authority; or
- (v) continuing the housing authority under the laws of any other jurisdiction.

Remuneration of board members

3.9 A member of the board must be reimbursed for reasonable and necessary expenses that arise directly out of the performance of his or her duties and may only otherwise be paid for the performance of his or her duties in accordance with the finance policy of the Toquaht government.

Information sharing and accountability

- 3.10**
- (a) The board reports to the Executive.
 - (b) The board must provide the director of finance with necessary information and advice in relation to the financial requirements of the housing authority for the

director of finance to perform his or her duties under Toquaht law as it relates to Toquaht housing and the operations of the housing authority as a Toquaht public institution.

- (c) At the request of the Executive, the board must report to the People’s Assembly, Council or the Executive on the financial and operational circumstances of the housing authority.

Duties of the Executive

3.11 The Executive, by resolution, must perform the following duties and may exercise the following powers relating to the housing authority:

- (a) appointing the members of the board in accordance with section 3.1;
- (b) where necessary and in accordance with section 3.2, removing a member of the board;
- (c) approving major decisions of the housing authority under section 3.8; and
- (d) performing any other duties or exercising any other powers on behalf of the Toquaht Nation as owner of the housing authority set out in this Act, the constating documents or any applicable law.

Housing office established

- 3.12**
- (a) The housing office is established as a division of the housing authority.
 - (b) The board must, after developing relevant selection criteria and in accordance with those selection criteria, appoint an individual to hold the position of housing officer.
 - (c) The housing officer reports to the chair of the board.

Duties of the housing officer

3.13 The housing officer must perform the following duties and may exercise the following powers:

- (a) manage the housing office;
- (b) maintain the housing list in accordance with section 7.5,
- (c) provide forms and appropriate information and assistance to individuals who apply to have their name added to the housing list under section 7.2, to be allocated Toquaht social housing under section 8.2, to rent Toquaht market housing under section 9.2 or for a spousal tenancy under section 11.4,

- (d) receive, on behalf of the housing authority, and process completed application forms,
- (e) at the request of the chair of the board, report on the activities of the housing office by oral or written report at meetings of
 - (i) the board,
 - (ii) the People’s Assembly,
 - (iii) Council, and
 - (iv) the Executive;
- (f) assist the board in the performance of its duties and the exercise of its powers;
- (g) identify, research and report to the board on any new housing opportunities to be developed and owned or operated by the housing authority;
- (h) develop, as part of a report prepared under subsection (g), construction plans, operating plans, budgets and financing strategies for consideration by the board that may be necessary or desirable in order for the board to give full consideration to that report;
- (i) negotiate, as directed by the board, new business relationships with other persons as may be necessary or desirable in order to pursue new housing opportunities approved by the board to be developed and owned or operated by the housing authority and the terms of any agreements that are necessary or desirable to establish those new business relationships for approval by the board;
- (j) provide the board with information and technical or logistical support that may be necessary or desirable in order for the board to advise the Executive on negotiations involving rights under the Maa-nulth Treaty that may impact on housing for the Toquaht Nation or Toquaht citizens;
- (k) identify and apply for grants or funding available from Canada, British Columbia or other persons for first nations housing, for other types of housing or for developing housing opportunities, as directed by the board;
- (l) assist the board in developing business relationships with other persons on behalf of the Toquaht Nation to fulfill the mandate of the housing authority;
- (m) assist the board in developing a proposed housing plan for review by the Executive and approval by Council;
- (n) provide Toquaht citizens with information concerning budgeting and financing strategies for housing to be developed, owned or operated by a Toquaht citizen;

- (n.1) assist the housing authority to market and rent Toquaht market housing to tenants who qualify; and
- (o) perform any additional duties or exercise any additional powers assigned to the housing officer
 - (i) under this or any other Toquaht enactment, or
 - (ii) by the board.

Delegation authority

- 3.14** (a) Upon the approval of the chair of the board, the housing officer may delegate, in writing, the performance of any of the housing officer’s duties or the exercise of any of housing officer’s powers to
- (i) an employee of the housing authority, or
 - (ii) an independent contractor of the housing authority.
- (b) Despite the delegation of any duties or powers under subsection (a), the housing officer remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

PART 4 - FINANCIAL ADMINISTRATION

Annual planning

- 4.1 (a) The fiscal year of the housing authority is a one-year period commencing on January 1 of one calendar year and ending on December 31 of the same calendar year.
- (b) The housing authority must, on or before September 30 of each year, provide for approval by the Executive a proposed annual plan for the housing authority for the next fiscal year.
- (c) The proposed annual plan provided under subsection (a) must include
- (i) a statement of how the annual plan for, and the activities to be engaged in by, the housing authority during the next fiscal year contributes towards the housing authority fulfilling its mandate,
 - (ii) a budget for the housing authority for the next fiscal year in the form and with the content required by the Executive, and
 - (iii) a brief descriptive overview of any major housing construction project that the housing authority intends to carry out during that fiscal year, or continue from the previous fiscal year, including a proposed housing construction project schedule, budget, a list of resources necessary or desirable for the housing construction project, including human, financial and capital resources, and a plan on how to acquire those resources for the housing construction project,
- (d) If an annual plan contains a deficit and the annual plan contemplates that deficit being financed by borrowing money, the housing authority must ensure that the annual plan includes a statement on how and when the debt from such borrowing will be serviced and repaid.
- (e) The Executive must consider the annual plan provided by the housing authority under subsection (a) and on or before November 30 of that year must
- (i) approve the annual plan, by Order, or
 - (ii) require the housing authority to amend and resubmit a revised proposed annual plan in the form and with the content required by the Executive.
- (f) If the Executive requires the housing authority to amend and resubmit a revised proposed annual plan under subsection (e)(ii), the housing authority must provide the Executive with a revised proposed annual plan in the form and with the content required by the Executive within 14 days and, upon receipt of the revised proposed annual plan, the Executive must consider the revised proposed annual

- plan and must approve, or amend and approve, the annual plan, by Order, within 14 days.
- (g) If an annual plan has not been approved by January 1 of any given year, the annual plan for the housing authority for the previous fiscal year will continue as the annual plan for the current fiscal year until such time as a proposed annual plan is approved by the Executive under subsection (f), with the necessary changes required and so far as applicable.
 - (h) An annual plan must not be amended without the approval of the Executive by resolution.
 - (i) Unless there is a substantial change in the forecasted revenues or expenditures of the housing authority, the Executive must not approve an amendment to an annual plan.

Accounts

- 4.2**
- (a) No account may be established for the deposit of money received by the housing authority except in accordance with this section.
 - (b) The board must establish the following accounts in the name of the housing authority:
 - (i) a general account for money from any source other than money that must be deposited into any other housing authority account; and
 - (ii) a special purpose account approved by the board under subsection (c).
 - (c) The board may, by resolution, authorize the housing officer to establish any other accounts in the name of the housing authority for any special purpose as may be necessary or desirable to manage the finances of the housing authority.
 - (d) All housing authority accounts must be established in a financial institution.
 - (e) Any income earned on money held in a housing authority account becomes a part of that account.
 - (f) Any income earned on an investment made from a housing authority account must be deposited into that account.

Revenues

- 4.3**
- (a) The housing officer must ensure the safekeeping of all money received by the housing authority.

- (b) The housing officer must deposit all money received by the housing authority into the appropriate housing authority account as soon as practicable after receipt of the money.
- (c) Money received by the housing authority that has been paid or collected in error or for a purpose that has not been fulfilled may be refunded in full or in part as circumstances require.
- (d) All or a portion of any debt or obligation owed to the housing authority may be written off upon the approval of the board by resolution.
- (e) All or a portion of any debt or obligation owed to the housing authority may be forgiven upon the approval of the board by resolution.

General limitation on expenditures

4.4 Money must not be paid out of any housing authority account unless the expenditure is

- (a) authorized under the annual plan for the current fiscal year, or
- (b) an emergency expenditure for the immediate repair or immediate preventative maintenance of Toquaht housing to avoid imminent loss or damage to that Toquaht housing.

Requisitions for payment

4.5 Money must not be paid out of any housing authority account unless a requisition for payment has been

- (a) completed in the form approved by the board by resolution, and
- (b) if the amount to be paid is less than \$5,000, signed by
 - (i) any one member of the board, or
 - (ii) the housing officer,
- (c) if the amount to be paid exceeds \$5,000 but is less than \$25,000, signed by
 - (i) any two members of the board, or
 - (ii) any one member of the board and the housing officer, or
- (d) if the amount to be paid exceeds \$25,000, signed by any two members of the board.

Form of payment and authorized signatories

- 4.6** (a) Payments from a housing authority account may be made by cheque, draft, electronic transfer or other similar instrument.
- (b) Any cheque, draft, electronic transfer or other similar instrument drawn on a housing authority account must be,
- (i) if the amount to be paid is less than \$5,000, signed by
- (A) any one member of the board, or
- (B) the housing officer,
- (ii) if the amount to be paid exceeds \$5,000 but is less than \$25,000, signed by
- (A) any two members of the board, or
- (B) any one member of the board and the housing officer, or
- (iii) if the amount to be paid exceeds \$25,000, signed by any two members of the board.

Financial reporting

- 4.7** (a) At least annually, the housing authority must report to the Executive on its financial and operational circumstances.
- (b) At the request of the chair of the Executive, the housing officer must report to the Executive on the financial and operational circumstances of the housing authority.
- (c) All accounting and financial reporting policies and practices of the housing authority must comply with generally accepted accounting principles.

Content of reporting

- 4.8** (a) The reporting under section 4.7 must include a review of
- (i) how the housing authority is fulfilling its mandate,
- (ii) the financial results of the housing authority's operations for the applicable reporting period,
- (iii) the number of units of Toquaht housing for which construction was started, is currently under construction and for which construction was completed for the applicable reporting period,
- (iv) the number of units of

- (A) Toquaht social housing and their percentage of all Toquaht housing, and
 - (B) Toquaht market housing and their percentage of all Toquaht housing managed, maintained or owned by the housing authority for the applicable reporting period, and
 - (v) how the information provided under this subsection compares to the information reported under this subsection in the previous reporting period.
- (b) The reporting under section 4.7 must also include a description of any material variations to any applicable approved annual plan for the housing authority as it relates to the period covered by the report.

Investments

- 4.9** The board may, by resolution, authorize an investment of all or a portion of the money in any housing authority account that is not immediately required for expenditures in one or more of the following:
- (a) securities issued or guaranteed by Canada or a province or territory of Canada; and
 - (b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution.

Borrowing

- 4.10** (a) The housing authority must not borrow money except in accordance with this section.
- (b) The housing officer may on behalf of the housing authority incur trade accounts payable or other accounts payable provided they are for an expenditure authorized under the approved annual plan for the current fiscal year.
- (c) The board
- (i) may, by resolution, authorize the housing officer to obtain an overdraft or line of credit in the name of the housing authority for the purpose of covering any short term cash flow needs of the housing authority for its operations, and
 - (ii) may, by resolution, authorize any drawdown on such overdraft or line of credit.

- (d) The board may, by resolution, authorize any borrowing by the housing authority for a purpose of a capital nature provided the borrowing is authorized
 - (i) under the approved annual plan for the current fiscal year, or
 - (ii) by the Executive, by resolution.
- (e) The board may, by resolution, authorize any borrowing by the housing authority for the purpose of repaying or refinancing any debt owed by the housing authority.
- (f) Any agreement or instrument relating, in whole or in part, to the borrowing of money by the housing authority must be signed by at least two members of the board.

Limitation on the use of borrowed money

- 4.11**
- (a) Subject to subsections (b) and (c), money borrowed by the housing authority must not be used for any purpose other than the purpose for which it was borrowed.
 - (b) Money borrowed by the housing authority that is not immediately required for expenditures may be invested in accordance with section 4.9.
 - (c) Money borrowed by the housing authority that is no longer required for the purpose for which it was borrowed must be used to repay the debt from the borrowing.

Guarantees

- 4.12**
- (a) The housing authority must not provide a guarantee except in accordance with this Act.
 - (b) Before the board authorizes any guarantee by the housing authority, including a guarantee under Part 12,
 - (i) the housing officer must prepare a report to the board identifying any risks associated with providing the guarantee and assessing the ability of the housing authority to honour the guarantee should it be required to do so, and
 - (ii) the board must
 - (A) consider such report, and
 - (B) obtain the approval of the Executive under section 3.8(n).

- (c) Any agreement or instrument relating, in whole or in part, to the provision of any guarantee by the housing authority must be signed by at least two members of the board.

Audited annual financial statements

- 4.13**
- (a) On or before March 1 of each year, the board must submit the annual financial statements of the housing authority for the previous fiscal year to the auditor.
 - (b) On or before April 15 of each year, the auditor must.
 - (i) audit the annual financial statements of the housing authority for the previous fiscal year in accordance with generally accepted auditing standards, and
 - (ii) prepare and submit to the Executive an audit opinion on the annual financial statements of the housing authority.
 - (c) On or before April 30 of each year,
 - (i) the Executive must review, and make recommendations to Council on, and
 - (ii) Council must review and, by resolution, approvethe audited annual financial statements of the housing authority for the previous fiscal year.
 - (d) Council must present the approved audited annual financial statements of the housing authority for the previous fiscal year to the People’s Assembly at the first annual generally assembly following its approval of the audited annual financial statements of the housing authority.

Financial Records

- 4.14**
- (a) The approved audited annual financial statements of the housing authority must be made available for inspection by Toquaht citizens at the Toquaht administrative office during regular business hours.
 - (b) All financial records that are produced by or on behalf of the housing authority or kept, used or received by any person on behalf of the housing authority are the property of the Toquaht Nation.
 - (c) The housing officer must ensure that all necessary financial records are properly prepared, maintained, stored and kept secure.
 - (d) All financial records of the housing authority must be kept for at least 10 years after they were created.

PART 5 - LAND ACQUISITION

Land acquisition

- 5.1** The housing authority may acquire real property for the purpose of developing Toquaht housing if
- (a) it has reasonable grounds to believe that the parcel is suitable for the development, and
 - (b) the acquisition is authorized under the annual plan for the current fiscal year.

Toquaht residential interest

- 5.2** For certainty, if the housing authority is a Toquaht housing services provider, it may acquire a Toquaht residential interest under Part 5 of the Land Act for the purpose of developing Toquaht housing.

Transfer of existing housing

- 5.3** The Executive may, by Order and subject to the Land Act, transfer to the housing authority an interest in, or licence in relation to, Toquaht lands for purposes of the housing authority under this Act.

PART 6 - HOUSING CONSTRUCTION

Contracting

- 6.1** The housing authority may retain a general contractor, or act as a general contractor and retain sub-contractors, for the purposes of carrying out its mandate as it relates to the construction or substantial renovation of Toquaht housing.

Procurement

- 6.2** (a) Subject to sections 6.3 and 6.4, every purchase of goods or services, including capital goods, with a cost of more than
- (i) \$5,000 in a fiscal year must not be made until at least three quotes have been received and considered, and
 - (ii) \$25,000 in a fiscal year must not be made until an open competition has been held and the resulting proposals evaluated.
- (b) Nothing in subsection (a) prevents the housing authority from obtaining quotes or holding open competitions for a purchase costing less than the limits set out in subsection (a).

Quotes

- 6.3** (a) Any request for quotes must specify exactly what goods or services are sought, including the quality of those goods or services.
- (b) The board must consider the quotes submitted and choose the quote which provides the best combination of price and quality relative to the request for a quote.
- (c) There is no obligation to choose the lowest, or any quote under subsection (b).

Open competition

- 6.4** (a) An open competition must be based on a written request for proposals that includes the following information:
- (i) a detailed description of the goods or services to be acquired by the housing authority;
 - (ii) the mandatory elements of the proposal;
 - (iii) the submission deadline;
 - (iv) the evaluation criteria;

- (v) the contract terms; and
 - (vi) a requirement that proposals must state they are irrevocable for a specified period.
- (b) The board must evaluate the proposals in accordance with the request under subsection (a) and make a written decision stating which proposal, if any, best meets the evaluation criteria.
 - (c) The board is not obliged to choose the lowest cost or any proposal.
 - (d) A request for proposals must be
 - (i) publicly posted where it may be seen by prospective proponents, and
 - (ii) sent to known prospective proponents.

Confidentiality

6.5 Quotes and proposals received under section 6.2 are confidential and must not be disclosed to anyone other than

- (a) the board, or
- (b) a Toquaht public employee whose job requires him or her to view the quote or proposal.

Exemptions

6.6 Section 6.2 does not apply if

- (a) an existing contract is in place to provide the goods or services and under which those goods or services are already being provided to the reasonable satisfaction of the board,
- (b) a contract existed within the past year to provide the goods or services and under which those goods or services were provided to the reasonable satisfaction of the board,
- (c) the board reasonably believes that only one supplier is able to provide the goods or services, or
- (d) the board reasonably believes that there is insufficient time to obtain quotes or hold an open competition under section 6.2.

Insurance

- 6.7** The housing authority must insure all Toquaht housing under construction from onset of construction against foreseeable risks and perils, including fire, wind, storm, tsunami and earthquake, for the full replacement value.

PART 7 - TOQUAHT SOCIAL HOUSING ELIGIBILITY

Eligibility criteria

- 7.1 An individual is eligible to rent Toquaht social housing if that individual
- (a) is a Toquaht citizen and is at least 19 years of age,
 - (b) has a combined household income equal to or less than the prescribed amount,
 - (c) has not been convicted of an indictable offence within the past 10 years, and
 - (d) is in good financial standing with the housing authority and the Toquaht Nation.

Application for assessment of eligibility

- 7.2 An individual described in section 7.1 who wishes to rent Toquaht social housing must apply in the prescribed form to the housing authority for an assessment of eligibility.

Information gathering

- 7.3 The housing authority may request the additional information the housing authority considers is necessary or desirable from the applicant or any other person before determining the applicant's eligibility to rent Toquaht social housing.

Notice of eligibility

- 7.4 (a) Within 60 days of the receipt of an eligibility application, the housing authority must deliver notice in accordance with Toquaht law to the applicant advising the applicant that he or she is
- (i) eligible to rent Toquaht social housing, or
 - (ii) ineligible to rent Toquaht social housing.
- (b) If the housing authority determines the applicant is eligible to rent Toquaht social housing, the housing officer must place the applicant's name on the housing list.
- (c) If the housing authority determines that the applicant is ineligible to rent Toquaht social housing, the housing authority must include written reasons for its decision in the notice under subsection (a)(ii) and inform the applicant of his or her right to reapply to the housing authority under section 7.7 or request a review of the decision of ineligibility by the Administrative Decisions Review Board under section 7.8.

Housing list

- 7.5** (a) The housing authority must maintain a list of individuals to whom the housing authority has provided a notice of eligibility to rent Toquaht social housing under section 7.4(a)(i).
- (a) The housing list must include the
- (i) name of each eligible individual, and
 - (ii) the date that individual's eligibility application was received by the housing authority under section 7.2
- and may include other information which the board considers appropriate.
- (b) The housing officer must
- (i) add to the housing list the name of an individual who the housing authority has provided a notice of eligibility to rent Toquaht social housing under section 7.4(a)(i),
 - (ii) remove from the list the name of an individual required to be removed by the board under section 7.6, and
 - (iii) add to or remove from the housing list the name of an individual in accordance with a decision of the Administrative Decisions Review Board under section 7.8.

Removal from housing list

- 7.6** (a) The housing authority must remove an individual's name from the housing list on the written request of that individual or if he or she is deceased.
- (b) The housing authority may remove an individual's name from the housing list if the housing authority considers that the individual is no longer eligible to rent Toquaht social housing on the basis of
- (i) the individual ceasing to be a Toquaht citizen, or
 - (ii) any new and relevant information available to the housing authority.
- (c) If the housing authority removes an individual's name from the housing list under subsection (b), the housing authority must deliver notice in accordance with Toquaht law of the decision to the individual.
- (d) The notice under subsection (c) must include written reasons for the decision and the notice must inform the applicant of his or her right to reapply to the housing

authority under section 7.7 or request a review of the decision of ineligibility by the Administrative Decisions Review Board under section 7.8.

Reapplication

7.7 An applicant who has received notice under section 7.4(a)(ii) or 7.6(c) may reapply under section 7.2 180 days or more after the date of that notice.

Review of ineligibility decision

7.8 An individual who has received

- (a) notice under section 7.4(a)(ii) that he or she is ineligible to rent Toquaht social housing, or
- (b) notice under section 7.6(c) that his or her name has been removed from the housing list

may request a review of that decision under the Administrative Decisions Review Act.

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PART 8 - TOQUAHT SOCIAL HOUSING ALLOCATION

Request for applications

- 8.1** When Toquaht social housing becomes available for rent, the housing authority must deliver notice in accordance with Toquaht law to every eligible individual inviting him or her to apply for the allocation of Toquaht social housing.

Application for allocation

- 8.2** An eligible individual who wishes to be considered for the allocation of the Toquaht social housing which is the subject of the notice under section 8.1 must apply in the prescribed form for the allocation of Toquaht social housing within 14 days of the date of the notice.

Assessment of applications

- 8.3** (a) Within 30 days of the notice under section 8.1, the housing authority must assess each allocation application by assigning points in the prescribed manner.
- (b) The housing authority may request the additional information the housing authority considers is necessary or desirable from an applicant or any other person for the purposes of the assessment under subsection (a).

Allocation of housing

- 8.4** (a) The housing authority must allocate the available Toquaht social housing referred to in section 8.1 to the applicant who has been assigned the highest number of points in accordance with section 8.3.
- (b) If the highest number of points has been assigned to more than one applicant, the housing authority must allocate the Toquaht social housing to the applicant with the highest number of points whose application for an assessment of eligibility under section 7.2 was received by the housing authority on the earliest date.

Notice concerning allocation

- 8.5** (a) Within 14 days of the allocation decision under section 8.4, the housing authority must deliver notice in accordance with Toquaht law
- (i) to the applicant allocated the Toquaht social housing advising him or her of the allocation, and
- (ii) to the other eligible individuals who applied under section 8.2 advising them of the decision to allocate the Toquaht social housing to another eligible individual and informing those applicants of their right to request

a review of the decision of allocation by the Administrative Decisions Review Board under section 8.6.

Review of allocation decision

- 8.6** (a) An applicant who has received a notice of non-allocation under section 8.5(a)(ii) may request a review of the allocation decision under the Administrative Decisions Review Act within 14 days of the date of the notice.
- (b) After conducting a review, the Administrative Decisions Review Board may
- (i) dismiss the review request, or
 - (ii) reverse the decision of the housing authority and order the housing authority to reconsider its decision.

Tenancy agreement

- 8.7** (a) An eligible individual who has been allocated Toquaht social housing may occupy that housing after entering into, and must occupy that Toquaht social housing in accordance with, a tenancy agreement with the housing authority in the prescribed form.
- (b) Despite subsection (a) and section 3.3(a) of the Administrative Decisions Review Act, the housing authority must not enter into a tenancy agreement and the eligible individual must not occupy the allocated Toquaht social housing until a review request made under section 8.6(a) relating to the allocation of that Toquaht social housing has been
- (i) withdrawn by the applicant,
 - (ii) resolved as a result of informal intervention of the review officer under section 2.2(c) of the Administrative Decisions Review Act, or
 - (iii) dismissed by order of the Administrative Decisions Review Board under section 4.7(b)(i) or 4.7(e) of the Administrative Decisions Review Act.

No allocation applications

- 8.8** (a) If no eligible individual applies for the available Toquaht social housing within the 14 days of the notice being sent under section 8.1, the housing authority must within 30 days issue a new notice in accordance with section 8.1 for that Toquaht social housing.
- (b) If no eligible individual applies for the available Toquaht social housing within 14 days of the notice being sent under subsection (a), the housing authority may rent that Toquaht social housing as though it were Toquaht market housing to the

individual the housing authority considers most appropriate in the circumstances, including, for certainty, an individual who is not a Toquaht citizen, substantially on the same terms as the tenancy agreement for a term or possible term no greater than three years.

- (c) For certainty, if Toquaht social housing is rented as Toquaht market housing under this section to an individual who is not an eligible individual, upon the expiration or earlier termination of the applicable tenancy agreement, that Toquaht social housing is not Toquaht market housing and continues as Toquaht social housing and must be allocated to an eligible individual in accordance with this Part.

Subletting social housing

- 8.9** (a) A tenant under a tenancy agreement for Toquaht social housing may only sublet that housing if
- (i) the subletting is in prescribed circumstances,
 - (ii) the housing authority and the tenant of the applicable Toquaht social housing agree on the subtenant,
 - (iii) the subletting is for a term or possible term not exceeding one year, and
 - (iv) the tenant, subtenant and the housing authority enter into a subletting agreement in the prescribed form.
- (b) For certainty, if the housing authority and the tenant of the applicable Toquaht social housing cannot agree on a subtenant to sublet the applicable Toquaht social housing to, the tenant is not permitted to sublet that Toquaht social housing.

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PART 9 - MARKET HOUSING

Notice of availability

9.1 When Toquaht market housing becomes available for rent, the housing authority must

- (a) post a notice in accordance with Toquaht law, and
- (b) publish a notice in accordance with Toquaht law,

that the Toquaht market housing is available for rent and that individuals may apply in the approved form to the housing authority by the date set out in the notice to rent that Toquaht market housing.

Application to rent

9.2 An individual who applies to rent the Toquaht market housing which is the subject of the notice under section 9.1 must

- (a) apply to the housing authority in the form approved by the housing authority, and
- (b) provide the housing authority with at least two of the following references indicating the individual's suitability as a tenant:
 - (i) from a former landlord;
 - (ii) from an individual who has known the applicant for at least five years; and
 - (iii) from an individual not related to the applicant who has had financial dealings with the applicant in the past three years.

Renting market housing

9.3 The housing authority may rent the Toquaht market housing referred to in section 9.1 to an individual

- (a) who makes an application in accordance with section 9.2, and
- (b) who the housing authority determines is the best applicant in the circumstances.

Tenancy agreement

9.4 An individual who rents Toquaht market housing may only occupy that housing after entering into, and must occupy that Toquaht market housing in accordance with, a tenancy agreement with the housing authority in the prescribed form.

Subletting

9.5 A tenant may, with the consent of the housing authority and such consent not to be unreasonably withheld, conditioned or delayed, sublet his or her Toquaht market housing to another individual for a term or possible term not exceeding three years, provided the tenant, subtenant and the housing authority enter into a subletting agreement in the prescribed form.

Rent to own

- 9.6** (a) For the purposes of this section, “rent to own agreement” means a tenancy agreement between the housing authority and a Toquaht citizen whereby during the term of that tenancy agreement the Toquaht citizen makes payments that contribute towards the Toquaht citizen purchasing Toquaht market housing from the housing authority.
- (b) The housing authority may enter into a rent to own agreement in the prescribed form with a Toquaht citizen renting Toquaht market housing.
- (c) If the housing authority and a Toquaht citizen enter into a rent to own agreement and at the end of the term of that rent to own agreement the Toquaht citizen meets all the requirements of the rent to own agreement, the Toquaht market housing identified in that rent to own agreement must be transferred by the housing authority to that Toquaht citizen, subject to the applicable requirements of the Land Act and other applicable enactments, and upon registration of that Toquaht market housing in the name of that Toquaht citizen in the lands register or the land title office, that Toquaht market housing ceases to be Toquaht housing for the purposes of this Act.

PART 10 - TENANT'S RIGHTS AND RESTRICTIONS

Right acquired

- 10.1** (a) Subject to subsection (b), a tenant is entitled to use and occupy his or her Toquaht housing for the duration of his or her tenancy agreement, including any renewal of the tenancy agreement, for residential purposes only.
- (b) A tenant may apply to the housing authority for permission to carry out a non-residential use in the applicable Toquaht housing provided that
- (i) the application is made in a form approved by the housing authority,
 - (ii) the non-residential use complies with all applicable zoning laws and all other applicable enactments and any additional requirements imposed by the housing authority,
 - (iii) the tenant agrees to pay any additional rent under the tenancy agreement required by the housing authority, and
 - (iv) any permission given under this section by the housing authority for a tenant to carry out a non-residential use in Toquaht housing expires upon the earlier of
 - (A) the expiration or earlier termination of the applicable tenancy agreement, or
 - (B) the permission is revoked in writing with reasons by the housing authority.
- (c) An application made by a tenant in accordance with subsection (b) must be considered by the housing authority within 90 days and may be rejected, approved or approved with conditions by the housing authority in its discretion and on the terms it considers appropriate in the circumstances.
- (d) A decision of the housing authority under subsection (c) is not reviewable.

Restrictions on transfer

- 10.2** (a) A tenant must not transfer by any means his or her right to use and occupy his or her Toquaht housing except in accordance with this Act.
- (b) A tenant must not pass in a Will his or her right to use and occupy his or her Toquaht housing.
- (c) A tenant must not sublet his or her Toquaht housing to any other person except in accordance with this Act.

Termination

- 10.3** The housing authority may terminate a tenancy agreement if the housing authority determines that
- (a) the Toquaht housing is condemned as unfit for habitation,
 - (b) the tenant's use of the Toquaht housing is for criminal purposes,
 - (c) the tenant is no longer ordinarily resident in the Toquaht housing, or
 - (d) there has been a substantive breach of the tenancy agreement.

Insurance

- 10.4** (a) The housing authority must insure all Toquaht housing against foreseeable risks and perils, including fire, wind, storm, tsunami and earthquake, for the full replacement value.
- (b) A tenant may maintain tenant's insurance in respect of his or her Toquaht housing on such terms as the tenant considers appropriate; provided that, for certainty, the housing authority is not liable for any damage to or loss of the tenant's personal belongings, any personal liability the tenant incurs as a result of his or her use and occupation of that Toquaht housing or any other matter typically covered in tenant's insurance.

Alterations

- 10.5** A tenant must not alter his or her Toquaht housing or allow the housing to be altered without obtaining the prior written approval of the housing authority and complying with all applicable law.

Inconsistency with tenancy agreement

- 10.6** In the event of an inconsistency between this Act and a tenancy agreement, this Act prevails.

Applicable law

- 10.7** For certainty but subject to this Act, the Residential Tenancy Act (British Columbia) applies to Toquaht housing and the tenancy agreement.

Unsuitable housing

- 10.8** (a) An individual who uses or occupies Toquaht housing under a tenancy agreement must comply with Part 4 of the Environmental Protection Act regarding that Toquaht housing and every tenancy agreement for Toquaht housing is deemed to

include a representation and warranty from the tenant to the housing authority that the tenant under that tenancy agreement will comply with Part 4 of the Environmental Protection Act and will not allow the applicable Toquaht housing to become unsightly.

- (b) The housing officer may perform the duties and may exercise the powers of an inspector and the director of lands, public works and resources under Part 4 of the Environmental Protection Act as they relate to Toquaht housing.

PART 11 - SPOUSAL TENANCY RIGHTS

Definitions

11.1 In this Part,

“domestic contract” means

- (a) a “spousal agreement” entered into between two individuals made in writing, signed and witnessed in which they agree on their respective rights and obligations while residing together as spouses or, on separation, in relation to the possession or division of family assets and may be a separate agreement or a part of an agreement dealing with their rights and obligations, or
- (b) a “separation agreement” entered into between the spouses who are living separate and apart, made in writing, signed and witnessed in which they agree on their respective rights and obligations on separation in relation to the possession or division of family assets and may be a separate agreement or part of an agreement dealing with their rights and obligations;

“family home” means Toquaht housing occupied in accordance with a tenancy agreement where

- (a) the tenant is a Toquaht citizen, and
- (b) a dependent is ordinarily resident in the family home;

“tenant” includes the estate of a deceased tenant, as represented by the executor, administrator or other personal representative of the estate of the deceased tenant;

“separate and apart” means intending to live separate and apart, where the marriage or marriage-like relationship has broken down and the tenant and spouse do not intend to reconcile and, for the purposes of this Part, may include living separate and apart under the same roof if the intent to live separate and apart exists;

“spousal tenancy” means the exclusive possession of a family home by a spouse under section 11.4(b) in accordance with a spousal tenancy agreement;

“spousal tenancy agreement” means a rental agreement for a family home entered into between the housing authority and a spouse under section 11.5(c)(iii);

“spouse” means an individual who is not a Toquaht citizen and is a spouse of a tenant or was a spouse of a tenant within the past 12 months;

“tenant” means a tenant who is a Toquaht citizen.

Application of Part

11.2 This Part applies only to Toquaht housing rented by a tenant under this Act.

Application of federal or provincial law

- 11.3** (a) Nothing in this Part limits the application of valid laws of Canada or British Columbia in relation to matrimonial causes, except to the extent that such laws deal expressly or implicitly with a spouse's interest in a tenancy agreement and to that extent this Part shall apply.
- (b) No order may be made by a court that results in a transfer of an agreement or possession of Toquaht housing in favour of a spouse or a dependent that is not a Toquaht citizen.

Application for spousal tenancy

- 11.4** (a) Upon the happening of the earlier of any of the following events, a spouse may, and acquires the right to, apply in accordance with this Part to the housing authority for a spousal tenancy:
- (i) the date agreed upon in a domestic contract between the spouse and the tenant when they commenced living separate and apart;
 - (ii) the date a court makes a declaratory judgment that the spouse and the tenant have no reasonable prospect of reconciliation with each other;
 - (iii) the date the spouse and the tenant enter into a separation agreement;
 - (iv) the date a divorce is granted to the spouse and the tenant, if they are married;
 - (v) the date the marriage between the spouse and the tenant is annulled;
 - (vi) the death of the tenant; or
 - (vii) such other time as a court determines.
- (b) An application under subsection (a) must be
- (i) in the prescribed form,
 - (ii) signed and certified by the spouse, and
 - (iii) made within 90 days of the event giving rise to the right to apply under subsection (a).

- (c) Before considering an application under this section, the housing authority may require the spouse to provide whatever documentation and information the housing authority considers reasonably necessary or desirable in order to consider the factors under section 11.5(a).

Review of application for spousal tenancy

- 11.5** (a) The housing authority, in reviewing an application made under section 11.4, will consider, in descending order of importance, the following factors:
- (i) which spouse has custody of a dependent child;
 - (ii) the possible disruptive effects on the dependent child of moving out of the community or to other accommodation;
 - (iii) the dependent child's views and preferences if such can reasonably be ascertained;
 - (iv) any mental, physical or emotional violence committed by the tenant or spouse against the other or a dependent child of either;
 - (v) the financial position of both the spouse and the tenant;
 - (vi) any existing court support orders;
 - (vii) the duration of time the spouse resided in the family home;
 - (viii) any domestic contract between the spouse and the tenant;
 - (ix) the availability of other suitable and affordable accommodation for each of the spouse and the tenant; and
 - (x) any other factors the housing authority considers relevant.
- (b) An application under section 11.4 must be considered within 14 days from the later of the day the application is received by the housing authority or the day the housing authority receives all the documentation and information requested under subsection (a).
- (c) Upon receiving an application under section 11.4 and considering the factors in subsection (a), the housing authority may
- (i) deny the application, or
 - (ii) terminate the tenant's tenancy agreement by giving 14 days' notice of the termination to the tenant delivered in accordance with Toquaht law, and

- (iii) grant the spouse exclusive possession of the family home and enter into a rental agreement with the spouse substantially on the same terms as the tenancy agreement for the family home commencing on the expiration of that 14 days.
- (d) The decision of the housing authority under subsection (c) must be communicated to the spouse verbally by the housing officer as soon as practicable after the decision is made and in writing by the chair of the board within seven days.
- (e) Upon the termination of a tenant's tenancy agreement under subsection (c)(ii), the spouse is entitled to exclusive possession of the family home in accordance with the spousal tenancy agreement and the tenant must immediately give up exclusive possession of the family home to the spouse.
- (f) A tenant or spouse affected by a decision of the housing authority under subsection (c) may request a review of that decision under the Administrative Decisions Review Act.

Termination of spousal tenancy

- 11.6** (a) A spousal tenancy will terminate on the earlier of any of the following events:
- (i) the death of the spouse with the spousal tenancy;
 - (ii) the spousal tenancy is no longer in the best interests of a dependent child ordinarily resident in the family home;
 - (iii) the spouse with the spousal tenancy has ceased to occupy the family home as a principal residence;
 - (iv) the spouse with the spousal tenancy no longer has primary custody of a dependent child who is ordinarily resident in the family home;
 - (v) the last child of either the spouse or the tenant for which the spouse with the spousal tenancy had primary custody is no longer a child;
 - (vi) the spouse with the spousal tenancy remarries, or enters into a marriage-like relationship, with an individual other than the tenant; and
 - (vii) there has been a substantive change in the factors considered under section 11.5(a) since the spousal tenancy was granted which warrants the termination of the spousal tenancy.
- (b) If the housing officer or the chair of the board is of the opinion that a spousal tenancy has terminated under subsection (a), the housing officer must prepare and issue a written report to the housing authority setting out the facts on which the opinion is based.

- (c) After considering a report issued by the housing officer under subsection (b), the housing authority may terminate the spousal tenancy agreement by giving 60 days' notice of the termination delivered in accordance with Toquaht law to the spouse with the spousal tenancy agreement that has been terminated.
- (d) A spouse whose spousal tenancy agreement has been terminated by the housing authority under subsection (c) may request a review of that decision under the Administrative Decisions Review Act.

Enforcement of spousal tenancy

- 11.7**
- (a) A person who interferes with a spousal tenancy or conducts themselves in a manner calculated to disrupt or interfere with the quiet possession of the applicable Toquaht housing by the spouse with the spousal tenancy or a child of either spouse, commits an offence and is liable, on summary conviction, to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 90 days.
 - (b) A peace officer may arrest without warrant an individual the peace officer believes on reasonable grounds to have committed an offence under subsection (a).
 - (c) Where a tenant or other person is interfering with the exclusive possession of a family home granted by the housing authority under section 11.5(c)(iii) or conducting themselves in a manner calculated to disrupt or interfere with the quiet possession of the family home by the spouse with the spousal tenancy or a dependent child ordinarily resident in the family home, the spouse with the spousal tenancy may apply to the Provincial Court which may make an order that the tenant or other person not enter the family home or approach within a particular distance of the family home.

PART 12 - HOUSING MANAGEMENT AND MAINTENANCE

Housing management and maintenance

- 12.1** The housing authority must manage and maintain all Toquaht housing by performing the duties and exercising the powers of a reasonably prudent homeowner including
- (a) the collection of rent for tenanted Toquaht housing,
 - (b) inspecting Toquaht housing at least annually,
 - (c) ensuring that all Toquaht housing, and housing assets managed and maintained by the housing authority, are insured for the full replacement value,
 - (d) ensuring that all Toquaht housing is maintained to a reasonable physical condition which is appropriate for their purpose and use,
 - (e) paying all applicable taxes and any service charges, including water and sewer, and
 - (f) enforcing all housing authority agreements and policies.

Standard of management and maintenance

- 12.2** The housing authority must manage and maintain all Toquaht housing to the standard expected of a reasonably prudent homeowner.

Inspection

- 12.3** The housing authority must inspect Toquaht housing at least annually to ensure that it is being maintained to the expected standard in accordance with the applicable tenancy agreement and applicable law.

Maintenance service agreement

- 12.4** The housing authority may enter into a maintenance service agreement with a tenant providing that the housing authority will perform certain maintenance duties including duties which are reasonably expected to be performed by the tenant, at the cost of the tenant or for a fee.

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PART 13 - HOUSING SUBSIDIES

Housing subsidy

- 13.1** The housing authority may provide a housing subsidy to a Toquaht enrollee who holds a residential interest for the construction of residential housing on the appurtenant lands.

Cumulative housing subsidy maximum

- 13.2** The total amount of all indebtedness owed to the housing authority or guaranteed by the housing authority under section 13.1 must not exceed \$5,000,000.

Housing subsidy application

- 13.3** (a) A Toquaht enrollee who is at least 19 years of age and holds a residential interest may apply to the housing authority in the prescribed form for a housing subsidy for the construction of residential housing on the appurtenant lands.
- (b) An application under subsection (a) must be accompanied by
- (i) a copy of land registry records relating to the appurtenant lands which contain the information referred to in section 2.13(a) of the Land Act,
 - (ii) a project development, construction and completion plan, including a cost estimate,
 - (iii) in the case of housing to be financed in part by a bank, trust company or credit union, a letter of intent from the financial institution showing that the financial institution will lend the applicant the money to build the housing if the conditions on the letter of intent are met, and
 - (iv) information showing the total financial resources available for the project verified by statements of account and, if applicable, the letter of intent referred to in paragraph (iii).

Allocation of housing subsidies

- 13.4** (a) Within 30 days of the receipt of an application under section 13.3, the housing authority must determine, in its sole discretion, whether to allocate a housing subsidy to the applicant, taking into account the applicant's circumstances including
- (i) the applicant's current household income and ability to service any loan required,
 - (ii) the applicant's assets and liabilities,

- (iii) the number of children or dependent adults in the applicant's care,
 - (iv) the applicant's age,
 - (v) the applicant's physical and mental health,
 - (vi) the age and physical and mental health of any children or dependent adults in the applicant's care,
 - (vii) the applicant's current living conditions, including the physical conditions of the applicant's current residential premises and the extent of crowding of those premises,
 - (viii) the applicant's personal character,
 - (ix) the stability of the applicant's spousal and family relationships, if any,
 - (x) the applicant's history as a tenant, home owner or occupier of residential housing,
 - (xi) the number of years that the applicant has lived on Toquaht lands,
 - (xii) the applicant's financial standing with the Toquaht Nation and the housing authority,
 - (xiii) any housing subsidy eligibility policy adopted by the housing authority and approved by the Executive, by Order, and
 - (xiv) any prescribed housing subsidy eligibility criteria.
- (b) The housing authority may request additional information it considers is necessary or desirable from the applicant or any other person before determining whether to allocate a housing subsidy to the applicant.

Notice of decision

- 13.5** (a) As soon as practicable after completing the assessment under section 13.4, the housing authority must deliver notice in accordance with Toquaht law to the applicant advising the applicant that he or she
- (i) has been allocated a housing subsidy, or
 - (ii) has not been allocated a housing subsidy.
- (b) A notice under subsection (a) must set out the details of the allocation including the amount of the capital housing grant, loan or loan guarantee and any conditions which must be met before the housing subsidy is distributed or takes effect.

- (c) The conditions under subsection (b) must include a requirement that the applicant gives the undertakings and enters into the agreements reasonably necessary to facilitate the housing subsidy and secure the interests of the housing authority and the Toquaht Nation.
- (d) If the housing authority declines to allocate the applicant a housing subsidy, the housing authority must give written reasons for its decision in the notice under subsection (a) and inform the applicant of his or her right to reapply to the housing authority under section 13.6.

Reapplication

13.6 An applicant who has been given notice that he or she has not been allocated a housing subsidy may reapply under section 13.3

- (a) following a material and significant change in the applicant's circumstances relating to his or her application, or
- (b) after two years of the date of the notice under section 13.5(d).

PART 14 - GENERAL PROVISIONS

Regulations

- 14.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

Limitation on actions

- 14.2 (a) For certainty and in accordance with 13.35.1 and 13.35.4 of Chapter 13 Governance of the Maa-nulth Treaty, no action for damages lies or may be commenced against any Toquaht official or former Toquaht official for anything done or omitted to be done under this Act.
- (b) Despite 13.35.2, 13.35.3, 13.35.5 and 13.35.6 of Chapter 13 Governance of the Maa-nulth Treaty, no action for damages lies or may be commenced against a Toquaht institution, Toquaht official or former Toquaht official for anything done or omitted to be done under this Act if they acted in good faith in the performance of their duties or the exercise of their powers.

Offence

- 14.3 (a) An individual commits an offence and is liable, on summary conviction, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding six months, if that individual makes a false representation, commits fraud or knowingly conceals a material fact in order to
- (i) be assessed as an eligible individual under Part 7,
- (ii) be allocated Toquaht housing under Part 8, or
- (iii) receive a housing subsidy under Part 13.

Commencement

- 14.4 (a) Subject to subsection (b), this Act comes into force on the date it is enacted.
- (b) Part 13 comes into force on the date determined by the Executive, by Order.

LEGISLATIVE HISTORY

Housing Authority Act TNS 1/2013 enacted February 15, 2013

Amendments

Section	Amendment	In Force
1.4	TNS 5/2015, s. 2.1	September 16, 2015
2.2(a)	TNS 5/2015, s. 2.2(a)	September 16, 2015
Part 2, 2.4	TNS 5/2015, s. 2.2(b)	September 16, 2015
3.1(a)	TNS 5/2015, s. 2.3(a)	September 16, 2015
3.11(a)	TNS 5/2015, s. 2.3(b)	September 16, 2015
3.12(b)	TNS 5/2015, s. 2.3(c)	September 16, 2015
3.13(c)	TNS 5/2015, s. 2.3(d)	September 16, 2015
3.13	TNS 5/2015, s. 2.3(e)	September 16, 2015
4.2(b)	TNS 5/2015, s. 2.4(a)	September 16, 2015
4.8(a)	TNS 5/2015, s. 2.4(c)	September 16, 2015
4.8(a)(iv)	TNS 5/2015, s. 2.4(d)	September 16, 2015
5.3	TNS 5/2015, s. 2.5	September 16, 2015
Part 7	TNS 5/2015, s. 2.6(a)	September 16, 2015
7.1(b)	TNS 5/2015, s. 2.6(b)	September 16, 2015
Part 8	TNS 5/2015, s. 2.7(a)	September 16, 2015
8.7(a)	TNS 5/2015, s. 2.7(b)	September 16, 2015
8.8	TNS 5/2015, s. 2.7(c)	September 16, 2015
8.9	TNS 5/2015, s. 2.7(d)	September 16, 2015
9.1	TNS 5/2015, s. 2.8(a)	September 16, 2015
9.3	TNS 5/2015, s. 2.8(b)	September 16, 2015
9.4	TNS 5/2015, s. 2.8(c)	September 16, 2015
9.5	TNS 5/2015, s. 2.8(d)	September 16, 2015
9.2	TNS 5/2015, s. 2.8(e)	September 16, 2015
9.8	TNS 5/2015, s. 2.8(a)[(f)]	September 16, 2015
10.4(a)(v)	TNS 5/2015, s. 2.9	September 16, 2015
11.1(e)	TNS 5/2015, s. 2.10	September 16, 2015
PART 9	TNS 5/2015, s. 2.11	September 16, 2015

Amending Acts:

TNS 5/2015 Housing Authority (Market Housing) Amendment Act enacted September 16, 2015

Regulations:

Orders: